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Getting to Yes: Belief Convergence and Asymmetrical Normative Entrapment in EU-ACP EPA Negotiations

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Getting to Yes: Belief Convergence and Asymmetrical Normative Entrapment in EU-ACP EPA Negotiations

Elijah Nyaga Munyi

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Getting to Yes: Belief Convergence and Asymmetrical Normative Entrapment in EU-ACP EPA Negotiations

Elijah Nyaga Munyi

Abstract:

The theoretical origins of this dissertation arise from a quest to understand and explain two key puzzles relating to EU negotiations for a Free Trade Agreement (called Economic Partnership Agreement) with the African Caribbean and Pacific (ACP) States. These negotiations have been ongoing since 2002. These puzzles are:

One, there is the puzzle of how to explain the variable speed that now differentiates ACP regions and states in their ratification of their 2007 EPA agreement? ACP states can now be divided into those that have ratified, those that have signed and those that have only initialed an EPA. While some seventeen states have now ratified their 2007 agreements, others have withheld ratification and even forced a renegotiation of the 2007 agreements. In a recalibration of what John Ravenhill (1985) termed 'horizontal collaboration', we now see palpable differences among ACP states with regard to their attitude and propensity to accept trade reciprocity with the EU. If one takes an ACP states ratification of an EPA agreement as a success for the EU, what explains such EU success in getting some ACP states (and not others) to a Yes!

Two, why have these trade negotiations towards an Economic Partnership Agreements (EPAs) been more protracted and deadlocked than other recent EU FTAs? This is contrary to prevalent theoretical suppositions in negotiation analysis (Lempereur, 2009; Hirshman, 1945; Emersion, 1962; Ravenhill, 1985; Elgstrom, 2005) that trade dependence of the ACP states on the EU and the inordinate market power of the EU should have procured an expeditious conclusion to the negotiation round, as materially dependent states acquiesce to their dependency. Yet unlike other recent EU FTA attempts which have either been finalized or terminated within five years, ACP states in the EPA round have managed remarkable resistance to acquiescing to the EU offensive which has thus kept them from providing trade reciprocity to the EU for the past 10 years as per the EPA objectives. EPA negotiations have dragged on for more than 10 years, propelled by successful ACP states resistance against the

EU, in what has been called a case of a 'not so weak south'. How can this remarkable resistance be explained in light of putative ACP material weakness and market dependency on the EU?

The research thus examines these two successes –ACP states success in resisting a quick concession to EPAs and the EU success in getting some ACP states to yes. Both of these puzzles and questions relate to how to explain efficiency in EPA negotiations. In explaining intra-ACP divergence in speed to ratification of EPAs, the research demonstrates the role of norms in catalyzing state behavior- beyond the exigency of material economic dependency as asymmetrical interdependence theorists would aver. On ACP strength in negotiation in spite of its putative economic weakness, the research finds that this can be explained by how ACP states exploit the norms of ACP-EU partnership to 'trap' the EU into a continuation of *partnership identity*. As such collective clientelism is squarely rooted into new surging institutionalism based interpretations of the EU's strengths and weakness in its external governance.

This is a unique strength of the ACP states afforded by the norms of its institutionalized relations with the EU. In addition by measuring the degree of ACP states' persuasion (belief/ideology) on the utility of an EPA, the research seeks to show how an ACP state propensity to ratify an EPA is predicated more on its belief in the appropriateness of the EPA for its economy, rather than by its trade dependence. By introducing these two theoretical interpretations [normative institutionalism and belief convergence] the research seeks to show that over and above trade dependence, expeditious conclusion of an asymmetrical negotiation is determined by the extent of the degree of normative convergence on the objectives of the negotiations, as well as the degree which weaker states deny or grant diffuse support to the social influence of the materially stronger state. Thus, it is the extent to which a dyad's parties fulfill the expected roles of hierarchical power affordance that determines the speed of conclusion of a negotiation.

DECLARATION

This thesis has not been submitted for academic assessment previously or at any other institution.

Elijah N. Munyi

Ph.D Candidate

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Abbreviations and Acronyms

ACP	Africa, Caribbean and Pacific
ASEAN	Association of South East Asian Nations
BATNA	Best Alternative to Negotiated Agreement
BLSM	Botswana, Lesotho, Swaziland, Mozambique
EAC	East Africa Community
ECA	Economic Commission for Africa
ECOWAS	Economic Community of West Africa States
ECPDM	European Centre for Development Policy Management
EDF	European Development Funds
EEC	European Economic Community
EPA	Economic Partnership Agreements
ESA	Eastern and Southern Africa
EU	European Union
FTA	Free Trade Area
FTAA	Free Trade Area of the Americas
GATT	General Agreement on Tariffs and Trade
GCC	Gulf Cooperation Council
GDP	Gross Domestic Product
GSP	Generalized System of Preferences
LDC	Least Developed Countries
MDC	More Developed Countries
MERCUSOR	Common Market of the South
MFN	More Favoured Nation
ODI	Overseas Development Institute
OPPD	Office for Promotion of Parliamentary Democracy
PNG	Papua New Guinea

REC	Regional Economic Community
RTA	Regional Trade Agreements
SADC	South African Development Community
SAT	Substantially All Trade
SVI	Subjective Value Index
TEU	Treaty of European Union
WTO	World Trade Organization

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At the beginning was an exciting maze of material and promise. The precise questions and objectives that inform this research were slowly cultivated and crystalized under the invaluable guidance of my principal supervisor Professor Søren Dosenrode. Professor Dosenrode has provided the intellectual goading, administrative support and even the occasional dose of social support which kept me motivated and focused. And while I surrendered to the dictates of my project, he has watched patiently as I veered deeper and deeper into negotiation analysis and away from regional integration *per se*- a subject I know he loves. It is not hyperbole; to him I remain forever indebted. My second supervisor Professor Wolfgang Zank has been the most ardent reader of my drafts and has provided thorough feedback on these drafts, which needless to say any aspiring scholar looks forward to. In our regular discussions of my progress and findings, his passionate critique of my work has fostered in me the need for reflection and encouraged development of apt skills in defending my ideas amiably. In addition to their supervisory role, both Søren and Wolfgang have embraced me as a colleague within CCIS and entrusted important responsibilities which I have found very energizing. I am very fondly indebted to these two remarkable individuals. My gratitude also goes to faculty at the Culture and Global Studies, among many others- Li Xing, Steen Christensen, Osman Farah, Robert Chr. Thomsen, Helene Pristed and Malene Gram for their encouragement and suggestions on improvement of the draft.

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Elijah N. Munyi

Aalborg, October 2013

1 INTRODUCTION: PROTRACTION AND EFFICIENCY OF EPAs

1.1 *Setting the Scene: Negotiation Analysis in International Relations*

Ever since Albert O. Hirschman's *National Power and the Structure of Foreign Trade* (1945) made the balance of material dependency between states the key analytical variable in explaining the outcomes of asymmetrical economic negotiations, there has been wide agreement on the proposition that: *The efficiency and distribution outcomes of an asymmetrical negotiation will be a function of the balance of material dependency between the two states at the negotiation.* The deduction from Hirschman's supposition has been that a materially weaker (subordinate) state A, would necessarily capitulate to a materially stronger (superordinate) state B depending on the extent of A's material dependency on B. Following on this supposition, the preferences of (subordinate) weaker states in a negotiation are therefore seen as being primarily driven by the exigency of their material needs. Or conversely, that the preferences of a stronger (superordinate) state are primarily informed (and subsequently enforced) by the material superiority such a state enjoys. This is a supposition that implies that states in asymmetrical negotiations only operate at the level of coercion and compliance, and states preferences or agreements cannot be a matter of internalized persuasion. This supposition thus disputes or even totally discounts negotiated agreements based on what Ikenberry and Kupchan call 'substantive beliefs rather than material payoffs' (Ikenberry and Kupchan, 1990: 283). Is it possible that beyond a Hirschmanique based interpretation of negotiated outcomes as a function of material payoffs that outcomes may be reached out of states' normative persuasion –socialization in Ikenberry and Kupchan's words? That states may reach agreements that are predicated on a shared normative internalization of the negotiation's objective? Is it possible that concessions, acquiescence or lack of agreement between a subordinate state and a superordinate state may be based on normative persuasion on an agreed objective?

This broad supposition marks the deductive origins of this thesis. Is it plausible that the preferences of states can also be predicated on a normative position that is not primarily driven by material needs and/or material incentives? And is it possible that beyond material interdependence, states (even the superordinate states like the EU in its relationship with the ACP states) have other dependencies - social and relational for instance - which a Hirschmanisue approach takes for granted and which play a role in influencing the process and outcomes of asymmetrical negotiations? These are the questions dealt in in the thesis, albeit in a more condensed and crisp form as outlined further down.

These are the broad theoretical concerns under scrutiny in this thesis with the use of the ongoing negotiations between the European Union and the African, Caribbean and Pacific (ACP) states for an Economic Partnership Agreement (EPA). The EPA negotiation is an apt case of an asymmetrical negotiation since it pits a group of economically weaker states against the richest bloc of European states. Out of the current list of the 49 poorest states classified as Least Developed Countries, 38 of them belong to the ACP group. What do the intra-ACP variances in outcomes of these negotiations reflect on the role of material interdependence, coalitions, states' normative persuasion and states' relational vulnerabilities in influencing the negotiating process and outcomes? Since the ACP comprises a big number of subordinate states (B¹, B², B³, B⁴ B⁵...and so on) with variances in their material balance (trade dependency and tariff vulnerability) against the EU, the case affords us an excellent comparison of the negotiated outcomes of the ACP states vis-à-vis their material dependencies. If a Hirschmanisue, structural material argument is to prevail, then we should witness in EPA outcomes patterns that mirror the respective dependencies among the ACP states. Is this the case?

In setting the scene, this introductory chapter seeks to achieve three ends. One, it broaches further on the definitions of economic negotiations and the objectives of economic analysis of

negotiated outcomes. This is done to lay the foundation of the kind of exercise that the thesis is engaged in. Two it sets out the empirical and theoretical problem which informs this study. This is done by introducing the background to the EPA negotiations, the initial organization of the negotiations into seven dyads based on seven ACP regions, and an outlay of the state-of-the-art in EPAs with regard to categorization of ACP states into four categories; (i) Those that have ratified EPAs, (ii) those that have only signed EPAs, (iii) those that have only initialed an EPA, and (iv) those that have not initialed an EPA at all. This thesis concerns itself primarily with the first 3 categories to discern explanations for this divergence after 2007. As will become clearer in subsequent chapters, the problem of explaining EPA negotiations and outcomes has a patent deductive basis. Do extant EU-ACP EPA outcomes affirm or discount the centrality of asymmetrical trade dependence in fomenting capitulation of ACP states in a Hirshmanisque supposition that materially weaker states are likely to acquiesce to the demands of materially superior states in asymmetrical negotiation due to their greater vulnerability to market withdraws? The final section of this introductory chapter outlines the structure of the rest of the thesis.

Negotiation and bargaining¹ are at the heart of many agreements and disagreements in life. Whether primarily social, economic or political, bargaining and negotiation activities are indispensable in our bid to converge the many differing preferences we hold as individuals and groups in society. Whether persuaded, cajoled, compromised or coerced into an agreement or even when an agreement is not reached at all, negotiations mark an attempt to

¹ These two words are used interchangeably in chapter one of the thesis and possibly in other parts of the thesis. As per the Oxford English Dictionary definition both words at least comprise an element of the other – a discussion with a view to establishing a position agreeable to both parties. This is also in agreement with Rubin and Brown (*The Social Psychology of Bargaining and Negotiation* pp – 1-2) on the equivalence of the words.

suitably converge and manage different interests. Spouses for instance are engaged in a constant bargain on mutual expectations and how to share their lives amicably, if not happily. Environmental activists and government agencies are often pitted against developers in reaching a compromise on intended physical developments – such as dams – deemed injurious to the environment. Neighbors will sometimes have to bargain over how to divide costs for maintenance of a shared fence. Countries are often pitted against each other in determining what tariffs to charge on their respective imports into each other's markets. Similarly countries are often driven to negotiate their boundaries with each other on how to amicably share their commonly held resources such as lakes, oceans or rivers. Even in Biblical legend, archrivals God and Satan are said to have negotiated the terms of Job's temptations to test his allegiances. Moreover even within one person, there is often an internal 'negotiation' on how to prioritize and satisfy our many conflicting interests and preferences within limited means. The very 'economic' notion of allocation of scarce resources whether these are material, emotional or time requires this brokering or conciliation over different preferences and priorities. Instances of negotiation simply abound in our lives.

Owing to this preponderance of negotiation activities, it is fair to infer then that the conduct of negotiations has a bearing on the nature of agreements or disagreements reached in whatever situation the negotiation is applied to. The object of this thesis is to make a contribution in expanding data and theorization on variables of influence to outcomes in international economic negotiations. To do this, I use the case of the ongoing Free Trade Agreement negotiations between the European Union, and the African Caribbean and Pacific (ACP) group of states. How do we explain the outcomes of the EPAs (as they stand in 2013)? Does the EPA negotiation process and outcomes contribute in conveying new variables with which to examine and explain how negotiated outcomes in economic negotiations come about?

Economic negotiations are ineluctably complicated processes to unveil systematically, yet this is the quest that this work intends to delve into. This is not only because they often involve a

varying range of conflicting interests, but also because over time, they involve an uncertain fluidity of issues, preferences, emotions, personalities and strategies. A contribution to scholarly probe into the conduct of economic negotiations with an attempt at a systematic explanation of why we reach the agreements we reach (or fail to reach the agreements we seek) is the aspiration of this dissertation. While the influence of any one of the variables leading to outcomes (issues, preferences, emotions, market dependency, personalities, norms, binding institutions and strategies) cannot be completely excluded in probing causation, a case study (whether *disciplined configurative*, or *heuristic*, or *theory testing*) can be used to emphasize the vigor or test the cogency of certain theoretical suppositions, or even merely highlight new under-researched variables for explanation of negotiated outcomes.

This work will use the definition of negotiation given by Saner Raymond in his book the *Expert Negotiator*, where negotiation is defined as ‘a process where two or more parties seek an agreement to establish what each shall give or take or perform and receive in a transaction between them’.² In narrowing down the definition to that between states, John Odell, a scholar of economic negotiation analysis, defines the negotiation process as, ‘a sequence of actions in which two or more governments address demands and proposals to each other for the ostensible purpose of reaching an agreement and changing the behavior of at least one party’ (Odell, 2000: 10). The study will also borrow from Odell’s qualification of ‘economic negotiations’ as, ‘negotiations in which parties demands, offers and actions in the negotiation refer to the production, movement or exchange of goods, services investments, money information or their regulation’ (Odell, 2000: 11) These definitions are in accord with Abhinay Muthoo’s definition of a bargaining situation as one where, ‘two players have a common

² Saner, Raymond. *Expert Negotiator*, pg 17.

interest to cooperate, but have conflicting interests over exactly how to cooperate' (Muthoo, 1999: 1). In this thesis therefore bargaining and negotiation are used interchangeably. The parties in the study are exclusively states and will mostly involve what ACP and EU governments and supranational institutions do as opposed to negotiations between firms. The transactions in question in this work primarily involve trade and development assistance treaties.

Analysis of outcomes and processes of economic negotiations is a growing field in International Relations and has been labeled 'the science of negotiation' (Raiffa, 1982), 'analysis of decision making' (Bell, Raiffa and Tversky, 1988), 'negotiation analysis' (Odell, 2006), in normative 'bargaining theory' (Nash 1950,) and even more loosely 'analysis of economic diplomacy' (Bayne and Woolcock, 2003).

The purpose of analysis of any one given process or processes of economic negotiation between states or regions is threefold: (a) to contribute to development of an analytical framework (or theory) of understanding negotiations, (b) to build on credible basis for generalizations or inferences on the nature of economic negotiations and (c) to build on historical descriptions as stocks of cases which shed light on the conduct of negotiations. Of course, understanding negotiation has an obvious implication for application on actual negotiations. There is an axiomatic premise that learning about what determines the success of negotiations can lead to enhancing success of future negotiations. At an academic level these objectives (above) are intended to pursue the establishment of some microfoundation(s) that the process, actors and context with the outcome. Can we deduce any patterns of order in complex negotiations where uncertainty and asymmetries of power and information abound? In spite of the complexity of negotiations is it still possible to derive some persuasive explanations on how we arrive at the outcomes that any negotiation ends up with? Given a large number of cases of real-life negotiation processes, and examining the outcomes of these

negotiations with regard to as many factors we expect to affect the outcomes as possible, is it possible to arrive at some approximate, if not exacting indication of how to explain or predict or generalize the interaction between the negotiation process, its actors and its outcomes? Is it possible to reach a persuasive causal mechanism or model of explanation, where a negotiation process under a given set of conditions can be expected to lead to a given outcome with a high degree of certitude? This is the 'science' of negotiation. And these are just a few of the questions raised in the science of negotiation analysis. Naturally, this science involves a great deal of simplification of complex negotiations to try and distill what may be exacting patterns in the outcomes of negotiations under a given set of approximate conditions and context. To put it in the words of Milton Friedman, is '...there a way of looking at or interpreting or organizing the evidence that will reveal superficially disconnected and diverse phenomena to be manifestations of a more fundamental and relatively simple structure'³. An attempt at this simplification is undoubtedly a source of frustration (and perhaps criticism) for scholars seeking a compelling and cogent model of explanation. However, as with any work in social science, simplification is a necessary cost to establish even the slightest insight into what is a probable causal regularity between certain variables under consideration.

In international politics, negotiation and bargaining is at the heart of any agreements in regional integration building process. Most major theories or conceptual frameworks for understanding regional integration have aspects of negotiations embedded. This is the case with intergovernmentalism, institutionalism, neo-functionalism and even critical theories. While intergovernmentalism focuses on interstate bargaining, neo-functionalism focuses on

³ Milton Friedman, *Essays in Positive Economics* (Chicago: University of Chicago Press, 1953), p. 33 as quoted in Walter Mattli's 'The Logic of Regional Integration: Europe and Beyond' p. 3.

the role of supranational institutions in driving, aggregating and mediating interests. Institutionalists emphasize the role of institutions (or regimes, in Krasner's terms) as independent causal variables of negotiated outcomes. What differs between these interpretations of region-making and negotiations are the underlying assumptions and assertions about the actors, the objectives of the actors and the context of region building processes. It is inherent therefore that the conduct of economic negotiations affects the nature of region building. The objective of this study is to examine the conduct of economic negotiations between the European Union (hereafter the EU) and the African Caribbean and Pacific (ACP) group of countries. The purpose of this examination is twofold: First, at the empirical level, the study uses the Economic Partnership Agreements (EPAs) between the EU and ACP to investigate and explain how different factors (negotiation capabilities/institutions, preferences/relationships, power/coalitions) account for differences in the outcomes of these Economic Partnership Agreements for different ACP-EU dyads. The objective here is to explore if these cases could provide that most basic role of case studies which as Jeniffer Platt (1999) has put it, is to possibly 'suggest, hypothesis, interpretations and empirical uniformities for future quantitative investigation' (Platt, 1999: 167). Second, at the analysis level, the study should lead to an explication of why the parties involved (the EU and the ACP regions in this case) reach the outcomes they do and what theoretical suppositions most cogently fit the empirical evidence in explanation. How do these negotiation cases add to or discount from existing contingent generalizations on the microfoundations of the link between process of negotiation and outcomes?

Due to the growing proliferation of regional, bilateral and multilateral trade negotiations, there has been a growing interest in negotiation analysis of economic negotiations. The overarching aim of negotiation analysis is to explore and explain how actors' dispositions and processes of negotiation affect the resulting agreements? Or why parties fail to reach an agreement? Or how the negotiation process affects the outcomes reached. And do certain actors, say the European Union, the United States or Japan show consistent negotiation strategies with

different parties? In the case of the ACP group, an interesting question is obviously that of how to explain variations in outcomes of the EU-ACP negotiations for the various ACP regions after 2007. Ultimately, beyond single case explanation and exploration, the ideal goal for negotiation analysis is to build contingent generalizations about causal mechanism in economic negotiations that may indeed be hypothesis generating. As James Sebenius has summarized it, 'negotiation analysis seeks to develop prescriptive theory and useful advice for negotiators and third parties' (Sebenius, 1992: 18).

Moreover, apart from the growing interest in analysis of economic negotiations, aspects of economic negotiations make them slightly different from security related negotiations: First, there is wide policy agreement as to the eventual objective for economic negotiations, that is the enhancement of economic exchange. The economic ideological divergence of the cold war days has dissolved in what has been termed the triumph of economic liberalism following the breakdown of the Soviet Union. As Landau (2000: 2) has put it, 'the "ideology" of liberalization is a prerequisite that is accepted by all negotiators'. The triumph of economic liberalism has thus narrowed down broad ideological differences over what the objectives of economic diplomacy are. The outcomes of the Uruguay round and the establishment of the WTO, the proliferation of Regional Trade Agreements (RTAs) as well as the growing number of bilateral Free Trade Agreements (FTAs) has almost made increasing economic liberalization the only game in town. Today even countries that still identify as communist, such as the Peoples Republic of China, Cuba or Vietnam are resolute free traders and members of the World Trade Organization (China- 2001, Cuba- 1995 and Vietnam -2007). This understanding, coupled with growing economic exchange makes economic negotiators more conscious of the cost of no agreement and more alive to the possibilities of expanding the possibility frontier.

This however does not mean that economic negotiations are necessary speedier than security negotiation nor does it mean that there lacks variance on the extent of trade liberalization considered appropriate by each state. The case of the EU-ACP FTA negotiation has for instance been unusually long drawn. Similarly, as clearly seen⁴ in the EPA case, there is a variation as to how institutionalized the commitment to liberalize trade is among different ACP states (or any other states). As per the study's findings, this divergence in states' desire for further trade and services liberalization in fact becomes an important norm in explaining not just the general protraction of the EPA negotiations but also the propensity of individual ACP states to ratify or withhold ratification of an EPA agreement.

Second, for any single negotiating party in an economic negotiation, the range of domestic actors and interests tends to vary more widely than in typical security related negotiations. The intensity and diversity of domestic economic interests varies greatly. Unlike security concerns that are still mostly regarded as a matter of national sovereignty, capital movement and commercial interests are more fluid, multinational and less nationalistic. While central institutions and leadership of security and defense are still predominantly national, capital movement is more diffuse. The state negotiator thus has a more difficult job of aggregating and crystallizing the diverging domestic interests into a single position. Thus, over and above interests, the process and conduct of the negotiation itself in an economic negotiation is a delicate complexity in management and aggregation of a broad range of entangled domestic and foreign interests. A principal liberal theory explanatory variable factor for outcomes of economic negotiations has been to show how domestic constituencies shape a state's

⁴ From my data collection using SVI questionnaires from EPA negotiators.

negotiating preferences and propensity for ratification of a trade agreement. This is the foundation of Robert D. Putnam (1988) renowned argument of international negotiations as a two level game revolving around the domestic politics of each party. Many studies in negotiation analysis (Abdelal and Kirshner 1999; Putnam, 1988; Davis and Oh, 2007; Hillman and Ursprung, 1988; Carranza, 2003; Chorev, 2007; Mo, 1994; Konig and Hug, 2002) have examined the interaction between domestic and foreign in shaping and constraining final negotiated outcomes of treaties. While fully cognizant of this angle my study does not examine the role of domestic interest in shaping national positions of EU or ACP negotiators. For the study I examine the already aggregated national or regional preferences as they are presented by the negotiators at the international level.

1.2 *Problem Statement: Explaining EPA efficiency and Explication of extant Research Gap*

The study, as might now be palpable is about the conduct of a particular case of economic negotiation between the EU and the ACP states for what the two parties labeled Economic Partnership Agreements (EPAs) and an analysis of this negotiation's outcomes to establish the (micro) foundations of their causation. EPAs are essentially Free Trade Agreements that seek to introduce trade reciprocity between the EU and ACP states. This section merely sets out the problem. The demonstration of the superfluous structural interpretations of EPA outcomes as a function of market dependency will be outlined in detail in subsequent theoretical chapters.

The EU is a regional grouping of 28 states in Europe and is the world's biggest trader by volume accounting for 20% of the total world exports and imports. It has the world's most supranationalised secretariat (known as the Commission) which is wholly in charge of the bloc's trade policy. The EU is legally incorporated by the 1992 Treaty of European Union (TEU). The ACP group of states comprises 79 states which have had 'special' preferential trading relations with the EU since the Treaty of Rome. These states are spread out through Africa (48 states), the Caribbean (16 states) and the Pacific (15 states) and hence the name ACP.

The ACP is legally constituted under the Georgetown Agreement of 1975. For purposes of the EPA negotiations, the ACP states divided themselves into seven regions, each of which would then negotiate with the EU. However, since some of the members in respective ACP regions were not LDCs (and thus were not under any obligation to enter into an EPA with the EU) the centrality of regional secretariats in negotiation was dramatically reduced and the regional RECs secretariats became only coordinators of the negotiation process. Thus with the exception of the Cariforum region, EPA negotiations in other ACP regions was primarily left to individual states. In spite of this, the EU continued to hold regionalized negotiating sessions in accordance with the emerging constellation of negotiating coalitions. Table 1 below shows the various ACP EPA negotiating regions, the states that comprised these regions and the status of their EPA.

Table 1. ACP EPA Negotiating Regions and State of EPA Conclusion

ACP region	Member States		LDCs	State of EPA
Cariforum (Caribbean) (15)	Antigua & Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Jamaica, St Kitts & Nevis, St Lucia, St Vincent & Grenadines, Surinam, Trinidad & Tobago, Haiti		Haiti	Comprehensive EPA ratified
Pacific	Cook Islands, Fiji, Marshall Islands, Micronesia, Nauru,		East Timor,	PNG – Ratified Fiji – signed

(15)	Niue, Palau, Papua New Guinea, Tonga, East Timor, Kiribati, Samoa, Solomon Islands, Tuvalu, Vanuatu	Kiribati, Samoa, Solomon Islands, Tuvalu, Vanuatu	The rest - Initialed
SADC	Botswana, Namibia, Swaziland, South Africa, Angola, Lesotho, Mozambique	Angola, Lesotho, Mozambique	Botswana, Lesotho, Swaziland and Mozambique (Ratified) Angola, Namibia & SA - Initialed
West Africa (Ecowas) (16)	Benin, Burkina Faso, Gambia, Guinea, Niger Guinea Bissau, Liberia, Mali, Mauritania, Senegal, Sierra Leone, Togo, Cape Verde, Co^ te d'Ivoire, Ghana, Nigeria	Benin, Burkina Faso, Gambia, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Senegal, Sierra Leone, Togo	Co^ te d'Ivoire - Signed Ghana - initialed

EAC (5)	Burundi, Rwanda Tanzania, Kenya, Uganda	Burundi, Rwanda, Tanzania, Uganda	All Initialed
ESA (12)	Mauritius, Seychelles, Zimbabwe, Comoros, Djibouti, Eritrea, Sudan Ethiopia, Madagascar, Malawi, Somalia, Zambia	Comoros, Djibouti, Eritrea, Ethiopia, Madagascar, Malawi, Somalia, Sudan, Zambia	Seychelles – Ratified Mauritius and Madagascar - signed
Central Africa (9)	Cameroon, Gabon, Rep. Congo, Chad Central African, Republic, DR Congo, Equatorial Guinea, Sao Tome & Principe	CAR, DRC, Chad, Equatorial Guinea, Sao Tome & Principe	

As can be seen from the table, the EPA were negotiated by seven ACP regions, five of which were by African states, one from the Caribbean and One from the Pacific. A comprehensive EPA (as opposed to an interim EPA) refers to whether the trade liberalization involved included services (comprehensive) or if it involved only goods (interim). For explanations on the meaning of initialing, signing and ratification, kindly see footnote 7, below. Of ACP's 79

member states, only Cuba is not signatory to the Cotonou Agreements and thus de jure not involved in the EPA negotiations.

In June 2000, the European Union and the African Caribbean and Pacific (ACP) group of countries signed the *Cotonou Agreement*. This was the 'third' installment of development cooperation agreements between the EU and the ACP group after the Younde (I and II) and Lome (I-IV) Conventions dating back to the 1957 Treaty of Rome. Since 1963, these agreements have typically provided the guidelines for EU's preferential trade and development cooperation with its former colonies. The key agreement (and difference) of the Cotonou Agreement from previous agreements was that rather than extending the preferential trade agreements for the ACP, both parties agreed to phase out the preferential trade treatment and re-introduce trade reciprocity. The EU and ACP agreed to conclude a "new World Trade Organization (WTO) compatible trading arrangements, removing progressively barriers to trade between them and enhancing cooperation in all areas relevant to trade" (Article 36(1))⁵. This was in essence going to move trade relations from primarily the unilateral EU preferential trading system institutionalized by the Lome Agreements, to a reciprocal Free Trade Agreement hinged on WTO legality. Thus since September 2002, the EU has been involved in negotiations for Free Trade Agreements with the ACP group of states. The first phase of these negotiations was done at the all-ACP group level where the EU held negotiations with the entire ACP group as a single block on issues of common interest to all ACP states. The second phase of the negotiation was to involve six ACP regions namely; West Africa, Central Africa, East and Southern Africa, the SADC region, Caribbean and Pacific. In the final few months of 2007, a seventh group, the EAC emerged from the ESA group as a separate negotiating entity.

Each of these regions then negotiated for an FTA with the EU. In the last few months of 2007, 36 ACP states agreed to and initialed an EPA. Since then however, two things have happened; One, there developed variable speed with regard to EPA ratification by various ACP states.

Table 2: Variable Speed in Intra- ACP EPA Agreement

ACP Region	No of members	Non-LDCs in group ⁶	<div> <div>2007</div> <div>Variable Speed</div> <div>2013</div> </div>			
			States with No EPAs	No. of states Initialed (2007)	No. of states Signed	No. of Ratified/ WTO legal
SADC	7	4	1	1	3 (2009)	1 (2012)
ESA	11	3	5	2	4 (2009)	-
EAC	5	1	-	5	-	-
Cent Afric	8	3	7		1 (2009)	-
West Afric	16	4	14	1	1 (2008)	-
Cariforum	14 (15)	13	-		-	15 (2009)
Pacific	15	9	13	1	1	1 (2011)
Total	76	36	40	10	11	15

Source: EU Trade (2012) Overview of EPAs. http://trade.ec.europa.eu/doclib/docs/2009/september/tradoc_144912.pdf

⁶ Hence GSP states which are not eligible for export to EU under the EBA

Seventeen states (15 Cariforum states plus Papua New Guinea and Seychelles) have moved ahead of the rest of ACP and ratified their EPA agreements with the EU. Two, since 2007, many of the ACP states that initialed an EPA have not only withheld ratification, but have actually compelled the EU into a re-negotiation of some of the 2007 agreements. Table 2 above shows the state-of-the-art in EPA variable speed which has developed after 2007, with regard to the category of EPA negotiation at which each ACP state stands; these are between initialing, signing or ratification⁷.

The thesis seeks to explain these two features: the variable speed and the unique ACP strength against the EU. The table shows the ACP regions and states, and the number of states in each ACP region that have initialed, signed or ratified an EPA agreement. Only through ratification of an EPA does it become WTO reported and operational and definitively legal. As table 2 shows, the Cotonou Agreement involved 76 ACP states and thus in an ideal case all 76 should have been part of an EPA. However, only the non-LDCs among ACP were directly affected by the WTO requirement for reciprocity. In 2007, 36 states initialed an EPA with the EU. Since then, 17 of these states (15 Cariforum states plus Papua New Guinea and Seychelles⁸) have ratified their EPA agreements and thus made their EPA negotiation complete and the agreements operational. 19 of the remaining states (out of 36 who initialed) are either stuck at initialing or signed (but not ratified) the agreements. How do we account for this variable

⁷ By initialing, a state confirms the authenticity of the agreed texts of the treaty. By signing, the state confirms consent to be bound by the contents of the treaty. Ratification signals the due authorization by all concerned agencies (executive and parliament) for the application of the treaty.

⁸ For Seychelles' ratification see http://trade.ec.europa.eu/doclib/docs/2010/may/tradoc_146180.pdf

speed? Is there a regular pattern or set of qualities that sets the 17 states apart from the rest of ACP?

During the negotiation of these FTAs, and even after initialization of interim agreements of some of the EPAs treaties, there has been an abiding notion (discussed in the theory chapter) that the outcomes were primarily contingent on the structural relations between the EU and the ACP and thus an inference that the outcomes reflected a capitulation by African regional blocs to EU's power. An ACP negotiator is for instance quoted as having said that, 'the balance of power in terms of economic clout and resources –meaning experts- is horribly tilted against the ACP. So it's very hard to see how to have a balanced negotiation in the circumstances. So it's neither a partnership nor a negotiation.'⁹ Such views may of course have some merit. However, even if we accepted the argument that the outcomes were simply a reflection of asymmetries in power relations, we would still be hard pressed to explain the variances in outcomes between different ACP regions. In any case, how much of the agreements could be attributed to structural factors? This work attempts a systematic unveiling of how to explain the outcomes and variations in outcomes in these FTA negotiations. The approach of this study raises two major concerns: The first concern is mostly descriptive and it deals with providing an intellectual order to how to perceive the outcomes from the ACP-EU EPA Agreements. Given a positive zone of agreement, can we describe where the outcomes lie? A proximate location of the EPA agreements on a Zone of Agreement would affirm or dispel the extent to which there was a negotiation. Using a comparison of the parties initial negotiating

⁹ An ACP negotiator responding to a survey carried out on behalf of ICCO. Quoted from Bilal and Stevens (2009) pg 52. This book, on pg 50 documents several other situations where the EU is seen as wielding greater power that it could use to extract its preferences from the ACP.

mandates and the eventual agreements we can establish the reference point from which to judge the nature of the gives and take during the negotiation. The second question concerns explaining why any given region ended up with the agreement that they did. This therefore entails explaining variance among several cases.

This dissertation seeks to examine how to understand the EU- ACP negotiations for Economic Partnership Agreements (EPAs) and the outcomes reached. If we map out a negotiation frontier of the EU-ACP EPA negotiation and obtain the outcomes reached, what do these outcomes say about the nature of wins and concessions in this dyad? What drove the outcomes and the variances in outcomes? What theoretical suppositions best explain these wins and concessions? The research question of the dissertation is thus framed as follows:

What accounts for bargaining efficiency in EU-ACP Economic Partnership Agreements Negotiations?

Bargaining efficiency is used as the main dependent variable in the study. For this study, bargaining efficiency refers to the duration taken to reach ratification (or provisional application) of an FTA agreement. With regard to EPA conclusion, the question of efficiency can be further divided into two main questions: The first aspect of efficiency refers to the variable speed which has developed in the sub-dyads where some dyads of EU-ACP regions or states have reached ratification before others. What explains this difference in efficiency between different ACP groups? Why has reaching ratification of EPAs been faster for some ACP groups than others? The first aspect of the question entails explaining intra-ACP variances (sub dyads) in efficiency outcomes.

The second aspect regards the efficiency of the super dyad (EU vs. ACP) in reaching an agreement and why these EPA negotiations have been so convoluted in spite of the putative asymmetrical material differences between the EU and the ACP states. Starting in 2002 and expected to be completed by end of 2007, the EU has only managed to complete the negotiations with one ACP group (Cariforum) plus Papua New Guinea and Seychelles in 2009 and 2012 respectively. All the rest of the ACP groups and states are still in the negotiations. The second aspect of the efficiency question concerns explaining this 11-year protraction. Thus the research question can be further divided into the following two questions. These are the two questions that inform the entire research task.

What accounts for bargaining efficiency in EU-ACP Economic Partnership Agreements?

- (i) What accounts for the variable speed in EPA conclusion between the EU and various ACP states?
- (ii) What accounts for ACP's inordinate resistance to EPA conclusion from the EU considering the EU's putative power dominance in the negotiation?

In the empirical chapter, the research has two major findings regarding the EPA negotiations beyond 2007: One, the EU 'wins' on the substantive areas considered most contested. This win relates to the distribution characteristics on the contested issues. Although there may seem to be what Lorenz, (2012: 6) has called 'considerable' regional variances in distributional aspects of the outcomes, these variances are only additional to the minimum threshold set by the EU positions. For instance, in bargaining for the suitable threshold (volume) and duration of trade liberalization, what in WTO lingua is known as "substantially all trade", all ACP states agree to the EU claim of a minimum threshold of 80% liberalization within 15 years. Beyond this minimum threshold, some states do choose to liberalize more. Yet in spite of initial differing offers on liberalization threshold sought by different ACP states, all ACP states finally converge on the EU stipulated thresholds. The EU thresholds for use of export taxes, MFN

clauses and infant industry protection seem to hold equally for all ACP states in Africa and Pacific (and a little less generous for the Caribbean). Any variations in the ACP regions' outcomes, particularly the African regions, outcomes are only subsidiary. Thus, overall, the EU objectives prevail in as far as main contested issues of EPAs are concerned. The "contested issues" and the outcomes from these bargains relate to distribution outcomes rather than efficiency outcomes. While the principal concern of my research is on the question of efficiency, considerable time is spent in the empirical chapter clarifying the zone of agreement, the contestations and the final agreements on these contested issues. The principal purpose of this exercise is to demonstrate that on distribution outcomes, the EU commands significant wins and that there seems to be only modest variation among ACP regions on the outcomes reached. One significant difference however in the outcomes for the EU relates to the time it takes to reach an agreement with different ACP regions. This constitutes the efficiency problem, and the two sub-research questions relate to this puzzle.

Two, in a case of what has been called a 'not so weak south' (Lorenz, 2012) the ACP states show remarkable strength in not only withholding ratification of agreed EPAs, but in forcing a renegotiation of the 2007 agreements. Why is the EU, which some scholars have characterized as a superpower, (Whitman 1997, Reid 2005, McCormick 2006, Cameron 2007), and which has indisputable market power over the ACP states unable to push through an expeditious EPA conclusion?

Table 3: Historical Evolution of Duration (efficiency) of EU-ACP Negotiations

Agreement	Duration of Negotiation
Younde I (1963)	6 months
Younde II (1969)	6 months
Lome I (1975)	2 years (73-75)
Cotonou (2000)	2-3 years (98-2000)
EU-Korea	3
EU- Mexico	4
EU-Peru/Colombia	5
EU-Egypt	6
EU-Cariforum	7
EU-Africa and Pacific	11 plus

A seeming inverse relationship between degree of asymmetry and speed of FTA conclusion particularly for institutionalized relations

Source: See Lecomte 2001

As table 3 below shows, why does the historical duration of EU-ACP negotiations keep on getting longer over the years in spite of EU's undisputed market power? As the table shows, FTA negotiations with associated states such as the ACP seem to take much longer than FTAs with non-associated states such as Egypt or Peru/Colombia or even North African states. Even in the particular case of just the ACP, the duration of negotiations from *Younde 1* to EPAs has increased from 6 months to durations of more than 10 years in the case of some ACP states. Even *Lome 1* of 1975 which is historically renowned for its complexity and degree of ambition in instituting a real partnership between the EU and the ACP took only two years to negotiate. How then is it that these putatively economically weaker ACP states are able to hold off so successfully against the EU?

This ACP resistance to a conclusion EPA negotiations (and in fact a re-negotiation) of the initialed 2007 agreements, I argue represents a 'success' for the ACP states that needs explaining. When power is viewed in a bi-directional sense in negotiation analysis, the power

to dominate may be just as potent as the power to resist. How to explain ACP's resistance power is thus a significant puzzle worth our attention. Why does the EU fail to simply terminate the EPA negotiations as it has done with other recent FTA negotiations such as ASEAN, Mercusor and Andean? Or rather why is the EU unable to close the deal much faster as would be expected (based on timeframes spent on previous of EU-ACP treaty negotiations)? **What explains ACP states' successful defense against the EU in negotiating time-frame beyond the initial deadline of 2007?**

Explaining these respective 'wins' is the key empirical and theoretical objective of this dissertation. Why does the EU win over those ACP states that have agreed to ratify their EPAs – what explains variance in ACP states propensity to ratify an EPA? And why are the 36 ACP states that initialed an EPA in 2007 so strong in not only resisting ratification but also forcing a re-negotiation of 2007 agreements?

The section below outlines in a condensed form what the research gaps are regarding the question of explaining effectiveness in economic negotiations for African, Caribbean and Pacific states in their economic negotiations with the EU. Firstly, as has been constantly intimated, the single most important justification for this research question is that it seeks to scrutinize the validity of existing interpretations and theoretical assumptions about the causation of the outcomes witnessed in EU-ACP negotiations. Although suppositions have been made alluding to the role of material asymmetries/dependencies as being the primary determinants of the outcomes, such suppositions have not been followed with empirical verification and/or affirmation. Using the EPA negotiating process where the EU is pitted against 79 ACP states, the quest is to examine if there are regularities or patterns which seem to illuminate on the efficiency and distribution properties of the outcomes reached in this negotiation. In order to study the relationship between the outcomes of EU-ACP negotiations and the negotiating process, one could use one of two methods: A longitudinal approach could

be used to study negotiations and outcomes over successive years of ACP-EU relations (from the early 1960s Younde Conventions to the 2000s EPAs). This would be superb in showing a whole range of factors in negotiation and how these might have changed over time (respective parties negotiating objectives, preference foundation, and if the distribution properties of the outcomes have changed over time). The other method would be cross-sectional, where we examine variance in a single negotiation round across ACP states and examine what creates this variance. The EPA round of negotiation renders the cross-sectional study possible. Since my focus is on explaining the cross-ACP variances in outcomes rather than the impact of time (historical developments) on the outcomes, this work will use the cross-sectional approach based on this single case of negotiation. This is therefore intentioned as a heuristic study that seeks to identify new variables or causal mechanisms in explanation of EPA outcomes and in extension, possibly provide insights into the foundational structures of economic interactions between the EU and the ACP group. If it does not find new explanatory variables, at least the study should seek to qualify existing explanations by attempting an empirically supported contention on how to interpret EU-ACP economic partnership agreements outcomes.

Secondly, this study is relevant because so far, with a few exceptions such as that by Tony (Heron, 2010) who discusses the Cariforum, and Lorenz (2012) who specifically analysis the SADC EPA process, most scholars (Bilal and Stevens, 2009; Elgstrom, 2005; Stevens, 2008; ECA, 2007) who have tried the explanation of EU-ACP outcomes have offered an undifferentiated aggregated, 'African' or 'ACP-wide' interpretations of the EPA outcomes. There has not been much systematic identification let alone explanation of the intra-African or ACP-wide variances in outcomes. The intra-ACP variance in EPA ratification which has emerged after 2007 deserves an explanation. The use of the EPA cases outcomes from several ACP regions affords the opportunity to not only highlight the variances with the ACP, but also to possibly provide insights into what foments these disparities in outcomes.

Thirdly and crucially this thesis intends to enhance clarity to the very definition of what ‘negotiation success’ or ‘failure’ entails. Even though there have been debates on gains and losses in the EPA outcomes, (Stevens; 2008; Bilal and Stevens; 2009 and Bilal, 2011) there has not been any systematic evaluation of gains or losses based on a standardized definition of negotiation success based on pre-negotiation objectives. In negotiation analysis, negotiation ‘success’ or ‘loss’ is based on the differences between a governments (or regions) pre-negotiation objectives and the outcomes. This work seeks to more systematically outline the pre-negotiation objectives and measure them against the outcomes. It is only this way that we could authoritatively talk of gains, losses and concessions.

1.3 Structure of the Thesis

Following this introduction, chapter II will outline the theoretical setting of the thesis’ tasks within conceptual frameworks in negotiation analysis and international relations theory. In addition to situating the negotiation agreements within IR theory, the chapter also proposes to reference other disciplines trying to understand the outcomes of such economic negotiation between states. One such reference will be made with regard to the social psychology of negotiation. Owing to the long ‘special relations’ between the EU and ACP states, it is proposed that the role of expectations should be factored into negotiation analysis. Expectations constitute an attitudinal element of context which IR theories may not provide or suitably account for. A similar reference to the psychology of social influence also informs sections of the penultimate chapter on the theoretical suppositions derivable from EPA outcomes Chapter III will dwell on method and an outline of the empirical data to be sought. The introductory parts of section III will primarily focus on ontological musings that guide the research exercise while the latter part outlines the research design itself. Chapter IV delves into the key empirical tasks of the dissertation. After a lengthy outline of the EPA negotiation zone of agreement to define the negotiated outcomes, this chapter seeks to provide data that shows answers the deductive question of if outcomes variances are a function of asymmetrical dependencies. Here data on ACP states’ trade dependencies and vulnerabilities is presented

and correlations with the efficiency outcomes examined. And if material asymmetries are not responsible for outcome variances, what is? The second part of the empirical chapter provides materials from negotiators' interviews and subjective value index surveys which measure the drivers of states' propensity to ratify an EPA. Chapter V provides a derivable theorization on asymmetrical negotiations from the EPA outcomes. The conclusion wraps up presenting a new dilemma on what engenders norm socialization in international asymmetrical relations.

2 CONCEPTUAL FRAMEWORKS IN ECONOMIC NEGOTIATION ANALYSIS

The purpose of this chapter is to lay down the theoretical and conceptual prism through which to examine negotiation outcomes. The chapter is aimed at three tasks: The first section will situate negotiation processes and outcomes within existing major rational choice paradigms in international relations theory. This will not only examine the scholarly cleavages between realism and liberalism in explaining negotiation outcomes but will also broach on the fuzzy intersection of both approaches and the difficulties faced by both in issuing definitive categorization of negotiation outcomes. The second section will review specific theoretical and empirical interpretations of the EU-ACP Economic Partnership Agreements (EPA) outcomes. As this study is specific to examining the EU- ACP EPA outcomes, the main objective here will be to examine the state-of-the-art in EPAs outcomes explanation? As literature examining the outcomes of these negotiations shows, most interpretations of EU-ACP EPA outcomes give an untested contention that the outcomes are a mostly a function of material asymmetries¹⁰ between the two regions. These untested assertions mark the deductive foundations of my empirical work. How critical is economic dependence in procuring an early end to the EPA negotiation? Are those states cariforum which were first to accept and ratify EPAs the most economically vulnerable? This literature's interpretation of power asymmetry may be both in the realist structural sense of absolute objective economic disparities or in the more liberal theory sense of asymmetrical interdependence. However, as I contend, this theoretical asymmetrical dependence argument may be misleading as it's not empirically supported by

¹⁰ The two important factors reflecting material asymmetry are EU's market power and its use of EDF funds as development assistance for ACP states.

evidence from the negotiation process and thus remains spurious. The variable speed that has emerged among ACP states after 2007 – between states that have only initialed and those that have already ratified their EPA agreements- does not suggest exigencies primarily driven by market vulnerability of ACP states. Although asymmetries might be useful in explaining a singular case, the cogency of the asymmetry argument for the entire ACP region, or even for the African regions alone is disputable since there is little literature that presents a comprehensive coverage or attempt at comprehensive (ACP wide) explanations. This study attempts such an overarching theoretical or conceptual hypothesis that could explain ACP-wide outcomes. In addition, tests done to examine the relationships between the outcomes and the factors of asymmetry do not reveal any compelling patterns on the impact of asymmetry apart for the common initialing of 2007. One other weakness of the existing literature is that it tends to gloss over the definition of negotiation success or loss. In this regard, while some studies do point out to the EU's objectives, there is little exposition of ACP blocs' pre-negotiation objectives and what was eventually conceded or won. Thus claims of one or other party's *greater* success or *loss* without a credible establishment of the pre-negotiation baseline remains weak. In my view, the primacy of establishing pre-negotiation preferences has been largely ignored.

Thirdly, I will set out additional theoretical considerations, which I perceive as relevant in explaining ACP-EU EPA outcomes but which present research on EPA outcomes has not incorporated empirically. This is seen as a way to contribute to theory building regarding explanatory variables for the outcomes of economic negotiations.

2.1 *The fuzzy Divide in Rationalist IR Theories: Negotiation and Bargaining within Liberalism and Realism*

IR theory can be broadly classified into two broad theoretical groupings: rational choice and constructivist theories. The cleavage among these broad classifications lies primarily in the conception of structure as either existing relatively objective of the actors (rational choice) or as

actors and structures as being mutually constituted (constructivism). The contestations between these two groups and its relation to my research will be dealt with at depth at the beginning section of my methodology chapter where I present a reflection on the ontological standpoints relating to this study. The section below will exclusively examine rational choice theories in understanding or explaining negotiated outcomes between states. It is preceded by a short introductory outline of the three major 'schools' of analysis with regard to causation of negotiated outcomes within rational choice and constructivism.

Realism and liberal theory paradigms of international relations have different assumptions about the state of the international structure, the essence of power, the use of power by states and the foundation of preference formation by states whenever they interact. In explaining the outcomes of economic negotiations between states, the fundamental divide between realism and liberalism¹¹ regards the emphasis placed on explaining the outcomes as either as an outcome of the 'configuration of capabilities' or a 'configuration of preferences' respectively. This distinction is similarly characterized as a difference of view between realism and liberalism on the primacy of asymmetries in actors capabilities vs. asymmetries in the salience attached to a negotiation's influence (Schneider, 2005: 699). Thus in trying to neatly characterize the theoretical divide in causal variables we can roughly attribute outcomes to two sets of variables: Realism attributes negotiation outcomes to the asymmetries in states' capabilities and emphasizes the actors' preoccupation with maximization of relative gains and how the negotiator uses their capabilities to extract concessions from the rival negotiator. Realism also places more emphasis on an intractable structure to which states can only

¹¹ Liberalism, in this section is used to strictly mean the liberal theory of International Relations and not as an economic or political ideology.

respond. In IR a structure is regarded as 'a set of relatively unchangeable constraints on the behavior of a state' (Hopf, 1998: 172). In a trade negotiations, a key structural element of power in realist consideration which is regarded as almost intractable is market power (Shadlan, 2008; Farrel, 2005; Haus, 1991; Dur and Mateo, 2010; Ravenhill, 1985; Dwyer and Orville C. Walker, Jr). Liberalism attributes the outcomes either to the preferences of the most powerful domestic constituency, the negotiation dexterity or to asymmetrical interdependence of the negotiators in an issue.

In explaining the causation of a dyad's negotiation outcomes (dependent variable), the explanatory (independent) variable that scholars have most relied on can be broadly grouped into three categories. In International Relations, the realist/liberal theory divide concerns itself with the extent to which outcomes can be explained as a function of either the configuration of power (realists) or the configuration of preferences and interdependence (liberal theorists). The fundamental traditional contestation in IR, in explaining the efficiency and distribution properties of outcomes of negotiation for economically asymmetrical states regards the centrality on which causation is attributed to the asymmetry in material resources or the negotiation process itself. Scholars within a more traditional and broad view of International Relations have tended to interpret negotiation outcomes from a material resources standpoint. In the liberal theory camp this is the basis of Nye and Keohane theory of asymmetrical interdependence (or complex interdependence) as the determinant of distribution properties of states' negotiations. This thinking is supported by theoretical suppositions of (Farrell, 2005; Heron, 2012; Hurt 2003; Elgstrom, 2005; Stevens, 2008 and the ECA, 2007). These theoretical suppositions however, have hardly been followed by empirical verification. Broadly, realists on the other hand attribute wins or losses to the configuration of power (as elaborated in section 2.2. below).

A second category of liberal theorists' research (fronted by John Odell, 2000, 2006, 2010 and Amrita Narlikar, 2013, 2011, 2010) seeks to explain states' negotiation outcomes as a function of the negotiation capabilities. For this group, the negotiating dexterity of each party is key in influencing the outcomes. Contra such suppositions of the manifest inevitability of outcomes in negotiation fomented by power asymmetries or dependencies, scholars within negotiation analysis (Bayne and Woolcok, 2003; Brown, 2002; Bilal and Stevens, 2009; Odell, 2000; Odell, 2006; Odell, 2010; Narlikar 2003; Lorenz, 2012; Putnam, 1988; Narlikar, 2006; etc) contend that the outcomes of a negotiation are partially if not fundamentally predicated on the negotiating process itself. As Odell argues, small and medium states are not necessarily at the mercy of economic Goliaths in international interactions and that they 'have been able to achieve some gains in trade negotiations with the powerful' (Odell, 2010:1) Assuming that the gains or losses of a negotiating round are measured based on the pre-negotiation objectives of each party, my quest is therefore to (a) compare the distribution properties of the outcomes to the pre-negotiation aspirations/objectives of each party and (b) to examine/explain what engenders losses, gains or the efficiency of the negotiation round and (c) determine if the explainers conform or diverge from prevailing suppositions. Looking at the outcomes of these interactions, and in consideration of the nature of their bargaining objectives, what can we learn of the patterns and factors that shape the outcomes? This view of the primacy of the negotiation process itself as crucial in determining outcomes is important in this dissertation because as shown later, the negotiating success of the ACP states has been remarkable in defending against the EU. Why have these (ACP) states been so uniquely successful?

The third category of theorists - institutionalists and constructivists - (and this is where this research most proximally falls) seek to explain negotiating outcomes as a function of the relationships and institutions that govern and constrain the negotiating dyad in question. This third group regards negotiation outcomes as being predicated on (whether as causal or intervening variables) the regimes that govern the interactions between these parties. For such scholars (Krasner, 1982a, 1982b; Caporaso and Stone Sweet, 2001; Diekmann, 2004; Thomas,

2010; Jupille, 1999; Inkeberry and Kupchan, 1990; Danielson, 2002; Barnett and Duvall, 2005) regimes, norms, institutional procedures and relationships are critical in determining the outcomes we end up with in international negotiations. In their suppositions for instance, the extent of formalized relationships that a state has with another, shapes and constrains both parties' actions in their negotiations. In my view these explanations ought not be necessarily exclusive and thus even though a scholar maybe labeled or categorized as belonging to one or other category, such categorization is not deemed irrevocable. As such, this work does not expressly regard or seek to promote or discount any one view of analyzing negotiated outcomes. Its neither pro-rationalist nor against constructivism, rather if one considers the broad array of potential variables in attributing negotiated outcomes, only fuzzy divides exist between these 'schools'. The following section reviews the contentions and overlaps within these broad paradigms in explaining or interpreting the outcomes of states' bargains

2.1.1 Realism and Negotiated Outcomes

Realism has been one of the two most compelling paradigms in international relations. As Barry Buzan has proclaimed, 'no other tradition of thought in the field of International Relations can begin to compete with the distinguished pedigree claimed by Realism' (Buzan, Jones and Little, 1993:3). This may be contested of course, but part of the lure and durability of realism in explaining interactions among states is its crisp assumptions about states' behavior and the international system. According to this paradigm the international system is anarchic, states are the major actors in this system and are rational, homogenous power seekers primarily concerned with security and survival. Accordingly, the anarchic nature of the system itself is perceived as determining the outcomes of international interactions. Although bound by these few assumptions about the nature of states, interstate relations and the international system, the paradigm is further divided by contending theories or propositions of what motivates and drives states to act the way they act in the international system. In his 1948 seminal book *Politics Among Nations: The Struggle for Power and Peace*, Han's Morgenthau's set out what was to become the foundational elements of realism. His classical realism asserts that states are driven by struggle for power in an anarchic international system. In

Morgenthau's view therefore, 'power' is not just a means of achieving a preference, but aggrandizement of power is the end in itself. According to his proposition states seek power because they are driven by *animus dominandi* - the innate human need to dominate. Classical realism's human nature argument was later more persuasively augmented by Kenneth Waltz structural realism. In his book *Theory of International Politics* (1979), while agreeing to Morgenthau's idea on states's unfettered lust for power, Waltz explains that the competition for power among states is precipitated by the anarchic nature of the international system where states can only depend on themselves for protection and survival in case of threats from other states. This state of uncertainty and insecurity about a states' survival and the lack of an overarching protector leads states to want to have as much power as a bulwark necessary to protect themselves. Thus, as (Mearsheimer, 2007: 72) puts it, while for "classical realists, power is an end in itself; for structural realists, power is a means to an end and the ultimate end is survival". Mearsheimer is himself a proponent of defensive realism's balance-of-power theory where he argues that states do not always seek absolute power but a relative stability in power configurations. This notion of maintenance of power configurations provided the linchpin for Charles Kindleberger's, Robert Gilpin's and Stephen Krasner's hegemonic stability theory. But as suggested by such cleavages between Morgenthau and Waltz on the state's motivations one hand and Mearsheimer and Gilpin on power balance or maximization, realism itself is beset with many contending threads. The bottom line for realists as far as explaining the outcomes of interactions at the international level is the extent to which states are the main actors, rational and power maximizing or balancing with regard to their international interactions.

However, most realist theories of IR were conceived with explaining the interaction between states with the causes of the great World Wars in mind and their application and relevance to modern economic relations arguably has obvious limitations. Primarily, due to the phenomenal development of a widely embraced international regime of international trade since the end of World War II, [the WTO/GATT system in the case of international trade], it is doubtful the extent to which we can apply structural arguments based on arguments of a

completely anarchic system. As Alice Landau observes, “economic issues are nested within regimes or international arrangements that are defined as sets of principles, standards, rules and decision making procedures around which actors expectations converge (Krasner 1983:2) Regimes or international arrangements have effects on state behavior giving them a sense of predictability in global interrelationships, providing information and a framework for interaction (Keohane 1984) and locking countries’ behaviour in a constrictive framework and forcing them to adapt policies they would not have adopted otherwise” (Landau 2000: 10).

In a broad comparison between ‘security’ and ‘economic’ negotiations therefore, the range of maneuver in economic negotiations is narrower. The level of anarchy is mitigated and the regime setting is more integrated and constraining. In FTA negotiations for instance, there is an extensive WTO regime that constrains the range of bargaining maneuvers and thus makes the outcomes less unpredictable. As I contend throughout the thesis, understanding the measure and effect of such constraints on EU -ACP negotiations is crucial because only by having a crisp understanding of the range of the win set or possibility frontier in the negotiation, can we judge the interplay of gains and losses by any single party. By assuming a weak or an absent international regime that constrains the behavior or range of outcomes in a FTA negotiation, realist theories fail to capture a salient feature of a Free Trade Agreement negotiation such as the one between the EU and ACP.

Notwithstanding this realist weakness in explaining economic negotiations, the concept of power maximizing as the driver of international economic relations has been taken over by political economists too in explaining the nature of economic relations among states. Since security-inspired realism theories assume the absence or general irrelevance of supranational regimens it was left to political economists in IPE to refine the relationship between structure and outcomes. Influential political economists such as Krasner, Kindleberger and Hirschman however, have tended to reverse the causation. Instead of assuming an intractable

international system which shapes or constrains state's interests, political-economy theorists have tended to explain how the international structure results from and is reflective of the configurations of power among states. In his 1945 book *National Power and Structure of Foreign Trade*, Albert O. Hirschman illustrated the political consequences of asymmetrical trade relations between two unequal economies. Hirschman showed how asymmetrical trade relations between a bigger economy (Germany during Hitler's reign) and smaller economies (Eastern and Southern Europe) ended up strengthening Germany's political influence in the smaller states. Hirschman's argument has since had many offshoots including Ken Shadlen's concept of *political trade dependence*. Hirschman's contribution was not so much to emphasize the use of material power by the superordinate state to further its interests but to observe the incidental role of an open international trading economic system in inadvertently increasing the power of bigger economies over smaller ones. Without a rapid diversification of their export destinations to counter reliance on one single bigger market, the smaller states become dependent on the bigger state and are thus more susceptible to political influence of the bigger state – what Ken Shadlen's¹² refers to as political trade dependence. Without intending it, Hirschman unwittingly made empirical demonstration of the bases of asymmetrical dependency and thus stoked the flourishing critical dependency theory.

Two decades later, in his “Beyond Asymmetry: Critical Notes of Myself as a Young Man and on some other old Friends”, Hirschman discounted the potency of the idea that made him a force in international relations theory. As he put it, in emphasizing the structural sources of

¹² In Ken Shadlen. 2008 ‘Globalisation, power and integration: the political economy of regional and bilateral trade agreements in the Americas’

political influence of a stronger economy on the smaller one, he had failed to capture the conceptual shortcoming of the possibility of countervailing, where power asymmetry produces stronger opposite dialectical forces to oppose the asymmetry among the smaller economies (Hirschman, 1978: 1). Thus in this later reflection Hirschman himself starts to chip away at the realist putative notion of the centrality to market power in determining negotiated outcomes.

Notwithstanding this weakness, Hirschman's contribution on the role of structure and economic asymmetries has compelling insights for any assessment of negotiation outcomes between North and South countries. EU and the ACP economic relations today, just like those between Germany and Eastern European nations before the Second World War, are steeped in market asymmetry. Hirschman's contribution in today's analysis of economic negotiations between North South economies lies in his pointing out what may be referred to as inadvertent outcomes of power asymmetries. These are outcomes not intentionally pursued by a bigger (more powerful economy) but arrived at inadvertently and which are reflective of power configurations even though the bigger state does not consciously, deliberately seek to expand or assert its power over another state. The import of Hirschmanesque interpretations on the role of structure for EU-ACP negotiation outcomes is to draw a difference between the coercive use of power by a big economy and inadvertently achieved outcomes (mostly) favorable to all parties but which advance the influence of the bigger state. Although negotiation outcomes could disproportionately expand the influence of the bigger state, such disproportion of outcomes does not necessarily reflect the bigger state's use of its power in the negotiation to wring out these disproportional benefits from the smaller state. Such disproportion of outcomes is more a function of the dependency engendered by the structure but not reflective of a coercive use of power. In addition, such disproportion in outcomes does not necessarily reflect the negotiation dexterity of the bigger economy. In this sense, although using structural explanations, rather than endorsing a realist perspective, Hirschmanesque interpretations boost liberal interpretation because they explain the (trade dependency)

foundations of the smaller country's preferences. Rather than assuming an intractable structure, they emphasize on the foundations of the preferences of a negotiating party. Hirschmanesque interpretations thus inform a more nuanced and refined liberal conception of power and what liberalists refer to as asymmetrical interdependence. As Hegemonic Stability Theory¹³ intimates, in a global system with a preeminent hegemonic state, smaller states could prefer to 'free ride' on the leadership of the dominant state and thus leap from the stability engendered by the hegemony. Such free riding could for instance involve the smaller state agreeing to the hegemony's wishes in order to gain market access of the bigger economy. Such free riding (essentially agreement with or support for the hegemony's agenda) is again not a coerced capitulation by the smaller state, but a considered preference of the smaller state based on their considered benefits of such affiliation with the hegemony or on normative agreement with the hegemon's objectives.

As Snidal goes on to credibly suggest, such strategic agreement by the smaller state to a hegemony's objectives in installing a given structure, could even benefit the smaller state *more* since the smaller state 'bears none of the costs of provision yet shares fully in the benefits. In Olsen's terms the "small exploit the large" and the traditional view of hegemony in the international system is turned on its head' (Snidal, 1985: 581). Thus one of weakness of realism in its emphasis on capabilities is therefore how it misconstrues such (enthusiastic!) free riding as capitulation to the bigger power's objectives rather than as a considered preference of the smaller state. By privileging means to ends, structural theories lack an explanation of preferences and assume that all that states want is power maximization or balancing. Such

¹³ For an extensive discussion of Hegemonic Stability Theory see, Duncan Snidal's "The Limits of Hegemonic Stability Theory". *International Organization*, 39,4 Autumn, 1985

disregard for a rigorous attribution of states' preference is reflected by Hubert Zimmermann who, in trying to characterize the EU as realist negotiator contends that, 'realists therefore deduce the preferences of international actors from the constraints of the international system, which is an anarchic environment.' (Zimmermann, 2007: 815). Of course, apart from an anarchic system, states have other factors determining their agreement or disagreement in international interactions such as ideology and beliefs and the tradeoffs for disagreement. As Powell has put it, 'structural theories take the units preferences over possible outcomes as given and, consequently lack a theory of preferences over outcomes' (Powell, 1994:318). It is only by rigorously outlining the (divergent) objectives of rival negotiating actors prior to a negotiation, that we can show *how* power has been used to change the objectives of one party by another.

The import of outlining and linking Hirschmanesque structural interpretations and the Hegemonic Stability Theory - as espoused by Krasner, Kindleberger, Gilpin and Keohane in one form or another- is twofold. One, it highlights the theoretical fuzziness in classification of structural interpretations as essentially realist¹⁴. Although structural interpretations have a realist foundation in attributing states' motives and actions to a state of international anarchy, by examining the preferences of states, one could arrive at a liberal interpretation which places

¹⁴ Keohane and Kindleberger are often classified as liberalists who attribute a collective goods interpretation in explaining the sources of stability in the presence of hegemony. Hubert Zimmermann regards Gilpin and Krasner as realists with Hirschman as their 'godfather'. This classification is most explicitly used in Zimmermann's 'Realist Power Europe? The EU in the Negotiations about China and Russia's WTO Accession' (2007, p. 815). Gerald Schneider on the other hand (Schneider, 2005: 667) seems to regard Hirschman as 'development theorist' who is not a realist. Buzan himself is now closely associated with fuelling enhancements of constructivism.

greater emphasis in explaining states' preferences and not taking preferences as automatically shaped by the structure. This fluidity has been recognized even by avowed structural realist Barry Buzan who has observed that theoretical fluidity between realism and liberal theory is already visible in the works of Keohane and Gilpin as well as in the work of Hedley Bull (1977) whose categorization swings between institutionalism (Liberal Theory) and realism. This fuzziness is further amplified by structural realists (especially by Buzan, Jones, Little) who criticize Kenneth Waltz's neorealism for ignoring the state (unit) level analysis and portraying the state as though it were an 'undifferentiated mass' (Buzan et al., 1993: 49). Structural realists argue that by referring to an anarchic international system, neorealism is usually referring to two things: the *attributes of the units* (states) and the *Interactions between them*. And in explaining the meaning of 'attributes of the units', Buzan observes that, 'attempts to explain behavior in terms of the preference functions of units- whether they seek power, security, welfare or cultural values as their primary objective' (Buzan, et al, 1993: 48) would fall within structural realism interpretation. This is theoretically fuzzy because liberal theorists such as Powell (quoted above) and Moravcsik have criticized realists in general for discounting the primacy of preferences and privileging means as the primary driver of states' interests. That Buzan does seem to recognize the importance of role of state preferences moderates Moravcsik's and other liberal theorists attack on neorealism. However, by recognizing the many differentiated sub-state groups and interests, what Moravcsik refers to as 'coalitions of social actors' within a state, then structural realists in the Buzanian scheme do close ranks with the liberal theorists in the Moravcskian scheme by discounting the monolithic nature of a state. Still the cleavage remains, because while structural realism would explain states' preferences as driven or primarily shaped by the structure, liberal theory sees states preferences as determined and driven by the interests of the strongest domestic constituency.

Second, both liberalism's asymmetrical interdependence and Hegemonic Stability Theory¹⁵ suggest that when asymmetrical economies are pitted in a negotiation, the negotiation outcomes are not inevitably more favorable to the larger economy, and even if they were, the relatively bigger gain is not necessary reflective of the larger economy's interest or coercion to maximize its relative gains. Although the outcomes in such a negotiation would inevitably be influenced by the positional relations of the units (states), the outcomes themselves do not necessarily reflect the structure relations. Although the influence of structure is undeniable, a more persuasive and thorough analysis would need to explain the unit preferences. In essence, structure is not destiny and as Keohane observes while structural realism may be a good starting point for explaining the outcomes of bargaining situations because of its, 'logical coherence and parsimonious theoretical framework, its tendency to deduce the interests of states from the system structure renders it weak and unsuccessful' (Keohane, 1986: 189-190). Theoretical openness, such as Keohane's, I contend should inform the explication of EU-ACP FTA outcomes.

To cap the review of the realist perspective in negotiation, one might ask the question: Is the EU (or the ACP states for that matter) realist negotiators who are operationally distributive in their external negotiation strategies? The almost uncontested power of the European Commission in external trade negotiations has been described as one of the most permeated

¹⁵ HST suggests that cooperation and order in the world system depends on a hub-and -spokes structure where the hub is a hegemonic state which provides certain public goods while shaping the rest of the spokes in norms and materially. Cooperation depends on existence of a dominant hegemon which essentially a realist argument.

and “federalized”¹⁶ and thus one open to systematic study. This has led to attempts to give broad characterizations of how the EU Commission negotiates; the possibility that the commission has a definite and distinct negotiating mode possibly guided by a consistent pattern of cooperation or competition with its negotiating partners. In trying to explain how the EU negotiates, some proponents of realism have tried to cast the EU as a realist power, primarily concerned with propagation of its relative gains in economic negotiations. Casting the EU as essentially realist in its economic negotiations, (using a multilateral case) Hubert Zimmermann for instance argues that the EU is, ‘motivated by geo-economic and mercantilist consideration, specifically the interest to maximize EU wealth relative to other powers’ (Zimmermann, 2007: 813). He uses the multilateral cases of China and Russia’s accession to the WTO to suggest that the EU’s positions and preferences on China and Russia’s accession were predicated on mercantilist concerns. Although trying to be more nuanced in discounting views of the EU as a ‘reactive, conservative...inflexible negotiator’ (Elgstrom and Stromvik, 2005: 117-127) also fall into this capabilities approach where they see the EU’s negotiation success as a function of its objectives¹⁷ depending on if the EU is acting ‘as *reformist* or a *status quo* actor’. They also see the EU negotiation success as depending on its relative capabilities vis a vis those of its negotiating partner (a symmetric or asymmetric negotiation). This view is supported by Christopher Stevens who claims that EU obtained the EPA agreements from the ACP states by, ‘one or other form of imposition’ (Stevens, 2008: 217). However, contrary to the views of Stevens and Elgstrom, John Ravenhill has shown that sometimes, the greater the perceived relative power of the EU with regard to the ACP group, the more the ACP group has been successful in extracting more from the EU. In other words, the negotiating success of

¹⁶ By Alberta M. Sbragia for instance in ‘Institution-Building from Below and Above: The European Community in Global Environmental Politics’ (1998:284)

¹⁷ Although they use the term context.

the ACP has at times been positively linked to EU's strength. As Ravenhill observes, 'in the context of the Lome agreement the weaker the ACP group, the more successful it may be in extracting further concessions from the Europeans' (Ravenhill, 1993: 45). This is in line with Hegemonic Stability theory's idea on the dominant hegemon predisposition to virtue as in when the EU has been more malleable to the ACP's solicitations, when it has felt itself more powerful. The astounding 1975 success of the ACP group in extracting a legally binding, institutionalized *Lome I* agreement founded on 'equal partnership' with preferential trade and commodities support mechanisms from the EU is often mentioned as one such example of ACP triumph in its negotiations based on EU's putative feeling of strength. Such assertions, if evidenced would go to annul any fixed views of EU's negotiating mode as being fixed or necessarily competitive, extractive or averse to cooperation.

Zimmermann's contention nevertheless, does persuasively suggest that the EU is usually concerned by positional competition and balancing (particularly with the US) and is often trying to outcompete the US in multilateral gains. However, it would be a stretch to cast the EU as undeviatingly realist (chiefly concerned about greater relative gains) in all its economic negotiation, especially in negotiations with weaker economies such as the ACP. Based on this indeterminate mode of the EU's character in negotiation, it would be heedless to simply assume that in negotiating with weaker economies, the EU would be either necessarily be a power wielding distributive negotiator or a cooperative, integrative negotiator. The outcomes of each negotiation should be explained on the merits of that specific case. Due to the dearth of research on ACP regions' negotiation history it would be difficult to characterize the negotiating style of ACP states. At this point one cannot even assume that ACP regions or states have a common negotiating disposition towards the EU. Notwithstanding this dearth of ACP wide research, John Ravenhill has observed and described ACP's successful negotiating associative strategy as that he labeled as 'collective clientelism' (Ravenhill, 1985). Elgstrom calls ACP states 'demandeurs or supplicants' (Elgstrom, 2005:185) and reckons the ACP group as poor negotiators with few if any negotiation resources for exchange with the EU. This is of

course a gross misunderstanding by Elgstrom and it is taken up in subsequent sections of the dissertation.

The implications for realists assumptions on negotiated outcomes of bargaining process as those between the EU and ACP would thus be as follows: States in a negotiation will get as much as their power allows them to. Or that the outcomes will necessarily be a reflection of the balance of power between the two parties. If the negotiating preferences between two states are conflicting, the share of the pie (outcomes) that each member of the dyad ends up with will be a function of the balance of the power between the two. If this proposition were accurate in the case of the EPA negotiations, we would then expect ACP EPA outcomes to vary in relation to the different power capabilities (GDP, GDP per capita, market dependence, negotiating dexterity, etc) of different ACP states. This is not empirically reflected in current EPA outcomes as chapter four of this dissertation shows. Similarly, if as a whole the EU has been unable to drive a breakthrough to EPA ratification in a relatively shorter period, then does this reflect a hitherto unaccounted for rise in power resources for the ACP states?

Due to the weaknesses outlined above of realism's explication of negotiation outcomes through an unrestrained emphasis on the inevitability of outcomes that reflect asymmetries in capabilities, it is my contention that liberal theory is more empirically illuminative and analytically vigorous in explaining the outcomes of economic negotiations such as those between the EU and ACP states. The intention here is not to dispute the usefulness of realist interpretations, but to discount the cogency of realism in EPA negotiation analysis. As mentioned at the beginning of this section, the fundamental divide between realism and liberalism regards the emphasis placed on explaining the outcomes as either as an outcome of the 'configuration of capabilities' or a 'configuration of preferences' respectively. Liberal theory is suitably open to a more expansive field of factors (beyond capabilities and anarchy) in explaining negotiation outcomes.

2.1.2 Liberal Theory's Complex Interdependence in Negotiated Outcomes

Liberal theory has been one of the two major contending approaches in International relations and compared to realism has often been (misunderstood) as less cogent in furnishing compelling assumptions on what engenders conflict or cooperation when states interact. Because of its discounting of the realist assertion of states' proclivity for conflict, liberal theory has had to counter perceptions of its being analytically hollow and naively idealistic. One of the most robust elucidations and defense of the liberal theory in recent times is given by Andrew Moravcsik's 1997 paper '*Taking Preferences Seriously: A Liberal Theory of International Politics*'. This work is particularly relevant because not only does Moravcsik seek to outline the core tenets of liberal theory as a systemic theory but also because he pertinently delves into the intersection of liberal theory and negotiation. In it, Moravcsik sets out what he regards as the three core assumptions of Liberal theory, assumptions which I think more cogently inform any analysis of negotiation outcomes. These are: One, that societal interest is varied and not automatically unified into a coherent single 'state preference'. In effect state's interest should not be assumed to be necessarily unified and static over time. Two, that what emerges as state preferences in an international interaction are only representative of certain segments of that society based on a process of intra-state aggregation and three, that the propensity for cooperation or conflict is based not simply on each actor's preferences [though it is] but on the policy interdependence between two (or more) actors' preferences. Liberal theory therefore expands on the explanatory variables for negotiation outcomes by explicating on the concept of power, the nature of actors and the role of the international interaction in exposing the policy interdependence.

As is often misleadingly conceived (thanks mainly to Carr's 1939 the *Twenty year Crisis*, 1919-1939,) where he cast power as an essentially realist variable, power as a compelling force in international relations is not a variable exclusive to realism. Moravcsik has thus gone on to set out a persuasive case why a conception of power within Liberal Theory is more fitting to negotiation analysis. As he argues,

'The liberal conception of power is based on an assumption *more* consistent with basic theories of bargaining and negotiation than those underlying realism: namely that the willingness of states to expend resources or make concessions is itself primarily a function of preferences, not capabilities. In this view-the foundation of Nash bargaining analysis, which has been extended to IR by Albert Hirshman, Keohane, Joseph Nye, and others-bargaining outcomes reflect the nature and relative intensity of actor preference. The "win-set," the "best alternative to negotiated agreement," the pattern of "asymmetrical interdependence," the relative opportunity cost of forgoing an agreement-all these core terms in negotiation analysis refer to different aspects of the relationship of bargaining outcomes on the preference functions of the actors. The capability-based power to threaten central to realism enters the equation in specific circumstances and only through linkage to threats and side-payments.' (Moravcsik, 1997: 523)

The import of Moravcsik's extension on the definition of power is to qualify how mere absolute economic or even market power does not wholly define negotiation outcomes. The relative economic power of a negotiator is affected by other factors, such as the alternatives to the negotiations as well as the negotiation competence of the other party. In trade negotiations, Diana Tussie and Marcelo Saguier see power as being encapsulated within four factors; the relative size of market, the type of negotiating coalitions created, the role of domestic actors in supporting a government's position and what they call the particularities of domestic institutions (Tussie and Saguier, 2011: 14). 'Power can also be conceived in terms of control over outcomes' (Keohane and Nye, 1989: 11-12). This entails the definition of asymmetrical interdependence and the extent to which a negotiator is either merely *sensitive* or *vulnerable* to policy changes induced by actions of the other negotiator. A key enhancement on the conception of power within liberal theory therefore is that power is not understood as merely the objective absolute or relative power of the negotiators, but the salience which they attach to an issue in a negotiation. As broached in the introduction chapter, asymmetric interdependence provides an insightful way to look at the EU-ACP FTAs since in spite of the EU's greater economic power, the EU might have been more sensitive to conclusion of an FTA since many ACP LDCs did not really need a reciprocal agreement due to the already existing

legally binding Cotonou preferential agreement as well as the EU's GSP Everything But Arms (EBA).

In addition since it was the EU's idea at first to institute trade reciprocity, it might have had more pressure to conclude the deal than the ACP states whose commitment to an EPA conclusion was lackluster. Article 37 (6) of the Cotonou Agreement already legally bound the EU to provide 'a framework for trade which is equivalent to their existing situation...and in conformity with WTO rules' to any ACP state that did not enter into an EPA. ACP states that did not sign an FTA with the EU therefore had - at least legally - an alternative fall back alternative to a negotiated agreement that was to be no worse than the existing preferential exporting terms prior to the EPA initiative. It is thus plausible that the EU had greater need for an EPA agreement than some ACP states, especially due the exigency to preempt the stringent obligations set out by article 37(6) of the Cotonou Agreement. The salience on urgency and alternatives to a negotiated agreement for the EU might thus have been theoretically worse than those of the ACP states.

The section below elaborates on why the broad foundation of explanation of negotiation outcomes as done in this work would more proximally fall with Liberal theory as outlined by Moravcsik. First, unlike in realism, LT¹⁸ does not assume a static, monolithic state. LT recognizes the existence of diverse domestic constituencies, lays more emphasis on the possible divergent preferences of such groups and pays attention to the intra-state aggregation in creating a 'unified' state preference. These assumptions correct for and moderate the classical realist view of a monolithic state with almost permanent fixed objectives and

¹⁸ Liberal Theory. This format will be used from time to time.

interests. These assumptions have led to the Putnamian view of any international negotiation as really being a two-level-operation which involves agreements not only at the international level (level I) but also at the domestic level (level II). As Moravcsik puts it, 'the state is not an actor but a representative institution constantly subject to capture and recapture, construction and reconstruction by coalitions of social actors' (Moravcsik, 1997: 518). This view is more consistent with economic negotiations such as EPAs where the multiplicity of domestic interests within the EU and within all ACP regions was legion. What eventually emerges as regional or national position is only a representation of either an aggregated mix of interests or is a representative preference of the most dominant group. Generally, economic interests tend to be more varied and more widely distributed within various groups within a state (or region) than say security interests where national security policy is almost entirely controlled by a few state security agencies. Liberal theory explores this multiplicity of interests and its influence on the negotiated outcomes more vigorously. Therefore although this study does not examine this multiplicity of domestic interests within each ACP state or region it is very alive to such aggregation of interests before the 'state' or regional position was arrived at.

Secondly, Liberal theory seems to be more up-to-date in qualifying the meaning of anarchy in the international system especially in the dimension of economic interactions. This update regards the manner in which scholars within liberal theory understand the logic and limits of anarchy in economic conflicts unlike in security studies. Anarchy, in the realist sense seems to place states ever on the brink of war or violent conflict in case of a breakdown in a bargaining or negotiation situation. For instance, in Joseph Grieco's effusive defense of realism in *'Anarchy and the limits of Cooperation'* he defines anarchy as state where,

'there is no overarching authority to prevent others from using violence, or the threat of violence to destroy or enslave them. As Kenneth Waltz suggests, wars can occur, "because there is nothing to prevent them", and therefore "in international politics, force serves not only as the *ultima ratio*, but indeed as the first and constant one" ((Waltz, 1959:232; Waltz, 1979: 113) Grieco, 1995: 160)

This realist view of the logic of anarchy as placing states ever on the verge of violence whenever a negotiated agreement is not reached because of fears of non-compliance or a disparity in relative gains is anachronistic for trade and economic negotiations where alternatives to a negotiated agreement are hardly violent or militarized. In the last decade, failed FTAs include those attempted between the US and Mercusor (the FTAA), the US and South Africa, the European Union and the Gulf Cooperation Council, the EU and ASEAN and EU and Mercusor. Similarly within the EU-ACP EPA process many ACP countries have failed to sign the agreements within the originally envisioned time frame. Today, prolonged US-China tensions over the perceived undervaluation of the Chinese currency have not led to a war. Even, historically, greater powers have not necessary gone go to war over failed economic agreements as Rawi Abdelal and Jonathan Kirshner¹⁹ show with regards to the thrice failed attempts for a treaty of reciprocity between the USA and the Kingdom of Hawaii between 1848 and 1875. Liberal theorists (mainly Moravcsik) have thus refined the meaning of anarchy today (within economic negotiations as opposed to strictly militaristic understanding) by trying to formulate a states' proclivity for a violent settlement based on its *willingness* to accept the costs and risks of such violent conflict. The threshold for willingness for armed interstate conflict due to a failure in an economic negotiation- based on historical evidence of the many failed negotiations – is very low. Thus Grieco's depiction of the state of anarchy as meaning that states deem the use of force as 'first and constant' is anachronistic. The understanding of anarchy as the propensity and readiness of states to use force therefore needs qualifying by realism. Or even more fundamentally, a complete re-think of the socio-political immutability of the very concept of anarchy as Wendt (1992) has proposed. Liberal theorists have at least

¹⁹ Rawi Abdelal and Jonathan Kirshner In 'Strategy, Economic Relations, and the definition of National Interests' Security Studies volume 9. Issue 1-2 1999: 119-156

attempted this qualification by applying concepts such as complex interdependence (Keohane and Nye) and policy interdependence (Moravcsik) particularly in the dimension of economic interactions.

In addition, with regards to anarchy, liberal theory suitably underscores the role of regimes in determining states' behavior. The foundational work on the role of regimes has mostly been articulated by Krasner who defined regimes as 'sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations. Principles are beliefs of fact, causation, and rectitude. Norms are standards of behavior defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice (Krasner, 1982: 186). While seen not as causal but intervening variables, the recognition of the role of regimes fits well with a rigorous analysis of any WTO constrained negotiation of a Free Trade Agreement. There is a highly functional set of international regimes that constrains and inform the behavior and expectations of states in economic negotiation. In Keohane and Nye's definition, regimes are 'accepted procedures, rules or institutions for certain kinds of activity that regulate and control interstate relations' (Keohane and Nye, 1989: 5). In the case of the EU-ACP EPA negotiations, the World Trade Organization (WTO) is a formidable organizing regime, whose demands to put up with its rules, precipitated the EU-ACP EPA negotiations in the first place. Regimes, by guaranteeing stability of the system to a certain degree moderate the desire of states to have to 'self-help' and be irascibly competitive in the Waltzian or Grieconian sense. Part of the realist weakness has been the extent to which regimes are regarded as only nested within the system and hardly having autonomy of their own. As shown in empirical studies on the impact of

regimes on negotiation processes and outcomes (Davis, 2006: 219-256; Smith, 2006: 257 -288)²⁰ regimes, in constraining the behavior of even much more powerful states through legal framing, have an independent and positive influence in moderating conditions for negotiations under asymmetric power. In these studies, developing countries (Peru and Ecuador) negotiating within the WTO framework have scored victories over disputes with the EU. Vietnam on the hand (a then non-member of the WTO), was unable to score a victory against the United States over a dispute in market access for catfish exports from Vietnam partly due to the its inability to leverage on the constraining regime of the WTO. As this dissertation demonstrates in later sections (section 4.6 mostly), the very principle of EU-ACP '*special relations*' or *partnership* has itself produced a clear set of constraining norms (standards of behavior deemed appropriate) which guide and constrain each party's propensity to act competitively in line with its preferred preferences.

Thirdly, in giving a vigorous foundation for state preferences, LT address structural approaches' lack of a theory for preferences as in Zimmermann's contention that states' wishes are assumed to only and automatically derive from the constraints of the international system, an anarchic environment. LT is thus more vigorous and unassuming about the basis of the preferences that states have. Similarly the very consideration of the role of the negotiating process discounts the realist emphasis on the primacy of the capabilities and structure on outcomes. If all that counted in an international interaction was the relative *power* and *objectives* of states, then negotiations would be almost useless since the outcomes would inevitably

²⁰ Christina L. Davies. 'Do WTO Rules create a Level Playing Field? Lessons from the Experience of Peru and Vietnam' and James McCall Smith. ' Compliance Bargaining in the WTO: Ecuador and the Bananas Dispute' in *Negotiating Trade*. Odell, J. (Ed) 2006:

reflect the capitulation of the weaker state to the objectives of the more powerful party. However, as John Odell has put it, negotiation analysis begins with the simple assumption that, 'variations in the [negotiating] process make a significant difference to outcomes' (Odell, 2000:2). By striving to propose and uncover other factors (beyond capabilities and asymmetries) by looking at aspects of the negotiating process such as negotiation strategies, Liberal theory is more suitably rigorous, in not only deriving the preferences of states, but also in showing how negotiating processes impact the achievement of those preferences. Among others, Odell (2010) and Panke (2012) have shown five mechanisms²¹ of how small states use the negotiation process to improve their success and moderate the extractive power of bigger states. Odell's additional contribution in defining negotiation success is to highlight that success does not necessarily entail an absolute win over a rival, but also includes how well a state minimizes its losses. This entails what Sharp, *et al* (2000) and Few, (2002) have described as resistance as a concept of negotiating power. Success is not strictly defined by the share of the pie one gets but more primarily by the gap between pre-negotiation aspirations and the negotiated outcomes. Thus in examining a states negotiating success Odell defines gains and losses 'in terms of a governments own objectives and relative to what would have happened if it had accepted the others decision' (Odell, 2010: 545). Part of the importance of analyzing the negotiating process is that it is during the negotiating process that states are exposed to the constraints imposed by the policy interdependence (Moravcsik's term) faced by both parties. Liberal Theory thus enriches negotiation analysis by examining the role of the negotiation process itself and the role of a shared regime in informing preferences and constraining behavior of states in reaching outcomes. This notion of constraints to preferences and

²¹ See Odell, 2010: 553-555

outcomes of a negotiation has actually been further broached by the theory of normative institutionalism and is taken up in the penultimate section of the dissertation.

A liberal theory interpretation of negotiating outcomes would therefore attribute negotiation outcomes to the following: One, *asymmetric interdependence* – the importance a negotiator attaches to an issue. It is noteworthy here to point out that in the case of the EPAs, asymmetrical interdependence has been almost entirely reduced to ACP material dependence (trade and aid) on the EU (Lempereur, 2009; Heron, 2010; Elgstrom, 2005; Bilal and Stevens, 2009; Stevens, 2007). Unlike a realist understanding of the constraints imposed by trade dependency, in liberal theory, a state of the asymmetric interdependence is determined not only by overarching dependencies, but also by the constraints imposed by their best alternative to a negotiated agreement (BATNA). Two, domestic politics and core domestic preferences and the *negotiation space or independence the negotiator has with regard to ratification* of agreements made at the international level. Three, the *negotiation dexterity* of a negotiator including in coalition formation and how well they can defend and claim (be integrative or distributive) in achieving not only their preferences, but in pursuing an agreement that is closest to Pareto-optimal. These broad theoretical foundations are used in a review of existing literature specific to explaining EU-ACP EPAs in the section below.

2.2 Explaining EPAs

There is relative scarcity of research that provides theoretically coherent empirical evidence to explain the outcomes achieved in EU-ACP EPAs. This relative scarcity is of course in comparison with numerous presuppositions about the main expected explanatory variables for the outcomes we have. Section (2.1) above has examined what the broad overarching theoretical dispositions in IR (Liberalism and Realism) regard as critical variables in attributing causation of outcomes. This section reviews some of the existing attempts to attribute causation in EPA outcomes. This review is divided into two sections. Section one explores literature that makes speculative theoretical suppositions on causation of expected outcomes.

The second section details the more concrete (but fewer) empirical studies that have tried to systematically explain the EPA outcomes. While examining this literature the considered weakness and strengths of each is explicated and as corollary the conceived contribution of this work outlined.

From the onset it is reasonable to point out that the ‘configuration of capabilities’ view informs most conjectures about what is expected of EU-ACP negotiations. Having spent the section above looking at broad characterization of negotiation outcomes within major IR approaches above, a natural point of departure in explaining EPAs is Mary Farrell’s ‘A Triumph of Realism over Idealism? Cooperation between the European Union and Africa’ where she contends that that

‘EU-Africa relations have, from the beginning, been characterised by the realist tendencies of individual European states and that, under the current EU policy, similar tendencies are driving the proposals of the Cotonou Agreement with the on-going negotiations on economic partnership agreements between the European Commission and groups of countries within the ACP’ (Farrell, 2005: 265)

Farrell goes on to explain the conjectured realist EU objectives as the attempt by the EU ‘to secure for itself continued market access and privileged economic status in the continent’s [Africa] emerging markets’ (ibid).

I would contend however that Farrell’s contentions are erroneous on two accounts. First, a theoretical depiction of a state’s self-interested behavior as essentially ‘realist’ is theoretically misleading. The contention between realism and liberal theory is not if states act out of self-interest, but the extent to which cooperation or conflict happens within the constraints imposed by different states’ self-interests. The very notion of an international bargain denotes

that the parties involved have differing interests in the first place, but also possibilities for cooperation. Beyond classical realism, the contention between realism and liberal theory is not essentially what motives shape states behavior but what conditions inhibit or catalyze cooperation. Second, Farrell's suggestion is factually debatable. Contrary to her insinuation, what really precipitated the initiative to negotiate reciprocal trade agreements between the EU and the ACP was not the EU's intentions to hog Africa's market, but the need to make EU-ACP trade treaties WTO legal and permissible. As outlined in section 1.2 (above) the move from preferential trade to reciprocity was driven by the twin factors of the EU trying to respond to the differential terms for LDCs brought out in the 'banana wars' and the sweeping economic liberalization norm of the early 1990s. As Christopher Stevens has put it, reciprocity was precipitated by, 'trade provisions of Cotonou's predecessor (the Lome Convention) that were subject to adverse rulings during the 1990s, first in the General Agreement on Tariffs and Trade (GATT) and then in the World trade Organization (WTO)'...since 'the EU was discriminating in favor of some developing countries and against others in ways that cannot be justified under WTO rules' (Stevens, 2008: 212). The EU was thus not principally motivated by the need to access ACP markets, although a reciprocal treaty would certainly enhance its possibility to expand its markets there. As of 2012, the EU share of exports to the ACP as a percentage of its total exports was only 5.1% and 5.5% for its imports from ACP states thus representing a rather small fraction of EU trade²². This is further reflected in the EU's 1996 *Green Paper on Relations Between the European Union and ACP Countries* which although admitting to the failure of development within Lome, and stating the EU's wish to legally embed its treaties with the ACP within WTO, did not out rightly call for reciprocity.

²² See ACP- EU Bilateral Trade with the World (2013) http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113340.pdf

In his work explaining the success of EU negotiators in international economic negotiations, Lempereur (2009) introduces the role liberal institutionalist view of relationships as being consequential to outcomes of a negotiation. As he puts it, 'the negotiation is more likely to succeed when both parties are interested in a consistent common denominator. It is *easier to negotiate with countries that are already bound by a privileged trade or economic agreement with the Union*, or with States that are about to join the Union... The upholding of a relationship of partnership becomes more important than the result of a negotiation (Lempereur, 2009: 560). Lempereur here makes an interesting observation which may be contrary to the findings of this research and contrary to Ravenhill's observations on clientelism. What is the influence of an associative relationship? Does an existing associative relationship expedite or complicate a negotiation round? ACP states have of course been in a privileged trading agreement with the EU since the Treaty of Rome and more so after *Lome 1*. As explicated at length in section 4.6 existing relationships may in fact work in the opposite direction as the one Lempereur suggests. Thus while agreeing with Lempereur on the theoretical role of relationships, especially associative relations, the empirical findings from this work point to opposite conclusions on their influence on efficiency of a negotiations round.

In his paper 'The Cotonou Agreement: Asymmetric Negotiations and the Impact of Norms' Ole Elgstrom introduces what he regards as a constructivist²³ element of the role of norms in influencing negotiation outcomes. As he plausibly argues, the Lome Convention EU (EC) preferences were driven by a EU desire to promote what he calls a *European partner identity*. This comprised the belief in, 'special ties between the EC and Africa, in a special responsibility for the EC in economic complementarity and possibility of mutual benefits, and in interdependence between rich and poor' (Elgstrom, 2005:188). The role of transnational norms, ideologies and beliefs as factors in negotiations and state preferences is one that has become increasingly recognized especially in explaining intra-EU governance and one that is explicated at length in chapter 5 of the dissertation. Thus Elgstrom's is a compelling insight. As the 1990s ebbed and the EU was caught in a global shift towards free trade and 'good governance', its norms towards the ACP changed. As WTO membership has produced expectations of fair treatment of all Least Developed Countries, the EU was pushed to embed its treaties within the WTO and thus eliminate preferential and differential treatment of some

²³ The word constructivist is here introduced and is used very cautiously and deliberately. I use it deliberately because Elgstrom himself refers to his notions of norms in informing preferences as being consistent with 'constructivist ideas'. However, contrary to Elgstrom (2005) or Björkdahl (2002), my view of norms in this dissertation is one where norms are not regarded as an exclusive province of constructivists. Rather my use of norms as a variable is based on a more liberal institutionalism understanding of norms in the fashion of Krasner, (1981), Mitchell and Keilbach, (2001), Lavenex and Schimmelfennig (2010), Thomas, (2008), Sandholtz and Stone Sweet (1998), Stone Sweet, Sandholtz and Fligstein (2001), Slapin, (2010) and Donnelley (2010). The central controversy between constructivists and rational choice theories is no longer if norms matter. This is agreeable. The more difficult question for constructivists has been to provide compelling, measurable and identifiable markers of innate belief. However, from an institutionalism interpretation, norms are powerful not because they are innately powerful as ideas, but because actors consider them useful for the sustained viability of political institutions. In other words norms are a function of identification (in Kelman's 1958 terms) in as far as they induce behavior which is consistent with a satisfying expectation of a relationship. Thus accordingly these institutionalist interpretations are very much rooted in principles emanating from membership of a certain political group and how these principles in turn influence decisions and outcomes within the group.

LDCs. The Cotonou agreement outcomes are therefore seen by Elgstrom as primarily shaped by two factors namely; the immense asymmetries between the two parties and the rigidity of the EU to make concessions once an internal EU common position has been reached. Elgstrom conjectures that due to the huge economic power disparities between the EU and ACP states, the latter would be reduced to ‘demandeurs or supplicants’ who would only be seeking favors from the EU during EPA negotiations. In recalling the liberal notion of the a negotiating party’s ability to give concessions, Elgstrom sees the EU as a ‘difficult negotiating partner’ due to the rigidity faced by the European Commission in adjusting a common position reached by all EU members. Based on these two factors Elgstrom thus opines that, ‘the prediction must be that the expected outcome in any EU negotiation with any weaker countries will be closely linked to the initial position of the European Union’ (Elgstrom, 2005: 187). As indicated below, this view is shared by Christopher Stevens and Sanoussi Bilal.

Elgstrom’ analysis is indisputably refreshing. It borrows from and cuts across the theoretical spectrum in attempting causation, a la Keohane. He attributes outcomes to asymmetrical interdependence (liberal theory), objective material resources (a realist bent) and of course the role of norms and ideologies. In addition he makes theoretically sound (though untested and incomplete) assumptions. Part of Elgstrom’s weakness is in explaining why and how the ACP states gained ‘concessions in many areas’ as he readily admits the EU conceded. Although he attributes these concessions to the ACP’s states evocation of the ‘partnership ideology and moral consciousness of the rich countries’ this explanation is unpersuasive because it doesn’t explain why we have variances in ACP regions outcomes. Would his argument then imply that the EU applied it’s so called *moral consciousness* differentially among different ACP regions? In other words, Elgstrom’s notion of norms fails to recognize the particular political environment - membership of a distinct group - which produces norms as legitimate principles.

Secondly, although Elgstrom theoretically casts the EU as the head-above-shoulders winner in the EPAs negotiation, the extent of EU's win can only best be gauged based on a clearer knowledge of ACP losses. If one uses Gerald Schneider's definition of negotiating success as 'how small own concessions are in comparison to the concessions of other actors' (Schneider, 2005: 667), then a credible means of evaluating the EU and ACP success or losses would involve assessing the concessions made by both parties. Elgstrom does not venture into assessing the ACP preferences and their concessions. Neither does he explain ACP's unique resistance power against the EU. It is possible that Elgstrom does not seek to expressly explain the EPAs. Although his hypotheses are reasonable, they remain hypothetical and incongruous with the patterns of outcomes that have emerged from the EPA negotiations. Empirical streamlining of these assertions is dealt with in this research in the empirical chapter.

Another factor informing a theoretical supposition of EPA outcomes relates to the importance which the ACP states themselves attributed to their collective negotiation in enhancing their strength against the EU. That is the role of coalitions. According to these states, collective bargaining, as opposed to individual bargaining was supposedly taken as likely to improve their outcomes. Similarly, in its support of regional frameworks for negotiation, the EU was also obviously supportive of this notion although perhaps the EU embraced the regional coalitions more as a way of reducing the complexity of the negotiation. As the ACP's 2002 negotiating mandate observed,

'...the ACP should be guided by the overriding principle of unity and solidarity in their approach to the EPA negotiations. On issues of common interest to all ACP States, it will be easier for the ACP to secure a better deal from the EU if they negotiate collectively than if they negotiate at an individual, regional or sub-regional level...the unity of the ACP Group is its force and its solidarity constitutes its negotiating strength' (ACP/61/056/02, 2002:5).

The ACP group hence made put into consideration its numerical size as likely to improve the outcomes. Theoretically, this could have been based on a belief that together, the ACP was likely to increase not only its putative economic power but also perhaps enhance its negotiation dexterity.

However, as has been argued and shown (Tussie and Saguier, 2011; Narlikar, 2006; Odell, 2006; Odell, 2000) although coalitions can be helpful, they are not necessarily helpful and as chapter four shows, there is little evidence that the distribution outcomes of ACP states varied much based on the strength of coalitions. Even ACP states such as Ghana or Cameroon which negotiated more or less individually (outside of the regional cluster) ended up with outcomes similar to those states that had more cohesive regional negotiations such as the EAC or the BLSM (Botswana, Lesotho, Swaziland and Mozambique) group. The utility of a coalition is determined not only by what Odell refers to as the tactical sequence of coalition formation - everybody first, bilateral first or most influential first- but also by its ability to prevent fragmentation. As the ACP states realized during the EPA process their institutional and policy coherence was not solid enough to prevent disintegration. This had already been predicted by John Ravenhill who in 2004 observed that, ' the differences in economic structures among countries of various regional groupings in Africa makes it highly unlikely that they will be able to reach agreement on a common approach for negotiations with the EU' (Ravenhill, 2004: 135-136). Eventually, national interests triumphed over regional interests and one of the interesting puzzles to pursue empirically is to investigate if bigger and more cohesive coalitions (such as the EAC or Cariforum) did indeed achieve more bargaining success than individual countries or smaller coalitions. Of course, as indicated by several

scholars (Elgstrom et al. 2001; Elgstrom, 2005), coalition formation within the EU²⁴ is a reasonable source of its negotiators strength due to the rigidity inherent in any commonly agreed coalition (regional) position. While coalitions make it more difficult to arrive at a common external position within a group, once that position is reached, it becomes better locked and gives negotiators a bulwark against conceding. Inflexibility however could be a negotiating strength or weakness.

Moving on to the more empirical work explaining EPAs, Tony Heron and Norman Girvan are two scholars who have attempted some systematic explanation of EPA outcomes. Both of them focus on CARIFORUM region. Grivan's analysis mainly attributes the outcomes to the negotiation capabilities and asymmetrical interdependence as relates to the CARIFORUM's states greater vulnerability if the EPAs were not signed before 2008²⁵. Girvan shows the EU's negotiation strategies (value claiming- threats and framing tactics) and how they contribute to EU's putative good performance. The EU framed the issue of WTO compatibility as incorporating the EU's Global Europe agenda into the and thus for instance pushed the Cariforum region to accept a comprehensive economic agreement that went beyond WTO requirements to include the so called 'Singapore' issues. In Girvan's terms, the instrument of force by the EU on ACP states was, 'the threat of withdrawal of duty free market access for ACP exports to Europe' (Girvan, 2009: 99). Most Cariforum states being non-LDCS, capitulated. This framing is similarly supported by (Hurt, 2003). Girvan's explanation is plausible. However, if we accept that the Cariforum capitulated to a comprehensive EPA

²⁴ Although EU commission is considered a single negotiator it comprises many national interests.

²⁵ In which case the mostly non-LDC Cariforum states would have resorted to exporting to the EU under the less advantageous GSP tariffs.

because of the pressure of possible market loss, one wonders how the African non-LDCs states such as Ghana, Kenya, Namibia, Botswana and others have resisted the same pressure. Or does he suggest that the Cariforum states had more pressing market dependencies than the African and pacific states? Granted, the Caribbean may have had different sectoral priorities (services) from its African counterparts. But the pressure faced by all non LDCs was real and as chapter 4 shows, it is in fact the African states which were more vulnerable in trade and potential tariff re-imposition under the GSP.

Accordingly, Tony Heron (2010) similarly disputes Girvan's argument about the role of EU force or threats in changing the Cariforum's choices. As he points out, the decision by CARIFORUM to sign a WTO-plus agreement was determined by the regions own internal aggregation of interests. He attributes the overall outcomes to CARIFORUM's trade dependence on the EU as well as an intra- CARIFORUM bargain that favored comprehensive (goods and services) EPA to an interim basic FTA. In Heron's case the main puzzle is on how to explain the CARIFORUM's unique acceptance to sign a comprehensive FTA unlike other ACP regions. Heron's work in 'Asymmetric Bargaining and Development Trade-offs in the CARIFORUM European Union Economic Partnership Agreement' is insightful because it is one of very few works that have gone on to examine ACP regions preferences. While many studies have explored the EU's preferences, not much has been published regarding the African regions or individual state preferences. Lacking such a picture of these regions preferences, then it becomes difficult to examine the nature of the concessions made.

As Heron outlines, the Cariforum's preferences for a comprehensive FTA were driven by three factors; an intra-regional aggregation of competing state preferences meant that negotiating for a WTO plus agreement was less contentious than a goods only agreement. Two, in signing a WTO plus agreement, Cariforum states wanted to give a 'strong signal' (Heron, 2010: 26) of their commitment to economic reform. And thirdly, in a clear disregard for the ACP solidarity

principle, Cariforum wanted to be the 'first' to bandwagon into the EU wishes for a WTO-plus agreement in order to possibly lure the EU to concede more in 'Mode IV'²⁶, delayed liberalization schedules and product exemptions, and – most importantly – preferential access to development finance' (Heron, 2010: 23). I agree with many of Heron's observations and particularly on Cariforum's use of the EPAs as a 'signal' for its commitment to economic reform. This factor was in fact independently confirmed by Cariforum negotiators in my own interviews.

However in citing these reasons, Heron treats all these disparate factors as sub-factors of asymmetry. As he puts it, these factors are given to show, 'in what ways power asymmetry shaped the political bargain of the Cariforum-EU EPA' (Heron, 2010: 17). While agreeing with the Heron's proposition on the role of a 'political bargain' as an explanation of the WTO-plus CARIFORUM agreement, his argument unfittingly gets captured by the axiomatic notion that if we have power asymmetry between negotiators then power asymmetry automatically becomes the critical factor in explaining outcomes. Political bargain is only an indicator of the intersection of EU and Cariforum's preferences, calculations and asymmetrical interdependence. The closest the paper comes to showing EU's use of power is in justification no. 4 where Heron contends that the Cariforum '*believed*'²⁷ that signing a WTO- plus agreement ahead of other blocs would favorably predispose them to extracting more financially from the EU's EDF package. Hence in seeking these preferential closer ties, the

²⁶ Temporary movement of natural persons: when independent service providers or employees of a multinational firm temporarily move to another country

²⁷ See (Heron, 2010: pp 21)

Cariforum can be seen as having tried to use the concept of *clientlism* to ally itself more closely with the EU and this way extract more material benefits. However, this *belief* did not produce much success as there is no evidence that Cariforum extracted more financial benefits than other blocs. In any case, while such a belief indisputably demonstrates the role of asymmetric expectations, it can only be most appropriately interpreted as Cariforum's basis for a preference (or concession) rather than a coercive move on the EU's part. This then shows a good example how or why the mere *existence* of power (EU EDF funds) isn't evidence for *use* of the power, although negotiating parties could make moves based on perceptions of the other's power. Notwithstanding these faults Heron's analysis does make a constructive and insightful foray into examining the preferences and negotiation calculations of an ACP region. In this case, the potential role of belief is actually highlighted although perhaps inadvertently.

Moving outside of the Caribbean and getting into the core cases studies, one of the most detailed work done on explaining the EPA process and outcomes in Africa is Bilal Sanoussi and Christopher Stevens' 2009, *The Interim Economic Partnership Agreements between the EU and African states: Contents, Challenges and Prospects*. The work offers a comprehensive outline of the negotiations outcomes from various African regional groups and individual states, makes comparisons of African regions outcomes, gives scattered snippets into the nature of the negotiating process – negotiator preferences, feelings and strategies – and most importantly gives a provisional assessment of the negotiation outcomes as primarily a function of the African regions negotiation capabilities and EU interests. In their view, 'the picture that emerges is entirely consistent with the hypothesis that countries have a deal that reflects their negotiating skills and the EU's interests: that countries able to negotiate hard, knowing their interests (which were not incompatible) with those of the European Commission have obtained a better deal than those lacking these characteristics' (Bilal and Stevens, 2009: 4). Bilal and Stevens' work makes the most geographically comprehensive job so far of trying to give order to the 'mess' (Steven, 2008: 211) that EPAs are deemed to be. This 'mess' as Christopher Stevens calls it, is not only in discerning the utility of the agreements themselves but in making

sense of why different regions or states have the outcomes they have. What explains the variances in outcomes?

Insightful about Sanoussi and Stevens's depiction of the negotiation outcomes is their attribution of the importance of negotiation capabilities in causation of the outcomes. Their analysis however remains anecdotal and has several fundamental shortcomings which make their conclusions about the outcomes spurious. One of the core disagreements with Bilal and Steven's analysis is their lack of a clear definition of what they regard as 'successful outcomes'. Do they refer to the distribution characteristics or to the efficiency? As shown in chapter four although this study does recognize substantive differences in efficiency, we do not see substantive differences in distribution characteristics of outcomes of different ACP states. The distribution characteristics are more or less the same for all African states and slightly different for the Cariforum states. Thus in my opinion the more substantive outcomes and variations to be explained is on the efficiency. Bilal and Stevens are however not specific on this assumption. While acknowledging the existence of a zone of cooperation between the EU and the African regions (the interests of the two were not entirely incompatible, they say) they seem to suggest that 'countries able to negotiate *hard*' achieved more successful outcomes. This would suggest that distributive²⁸ bargaining was more effective in getting results. However, although there are references made to the EU use of threats (especially by the EU's trade then Commissioner Peter Mandelson), and the feelings that such threats elicited from the ACP negotiators, Sanoussi and Stevens do not delve into the negotiation strategies or responses of the African regional groups. They also do not show, or discuss why such strategies as the said

²⁸ See Odell, 2000: 224-226 for a crystallization of the character of distributive negotiating

EU threats have different results in different ACP states and regions. Were some states more cowed by the threats than others? Their silence on African regions and states' negotiation moves of course implicitly implies almost totally responding to the EU's moves. This might have been the case, but even if it were, it's not been really explicated and shown. We are only left to imagine that this is how it was. If, as Sanoussi and Stevens contend, some African regions got better outcomes than others due to their 'hard' negotiating dexterity, then we would need to see evidence of this *hard* negotiating styles employed by the more successful group(s). Sanoussi and Stevens make contentions, but present no systematic evidence on the causes of variances in outcomes. A more compelling explanation of variances in outcomes would have necessitated a presentation of the variances in negotiation capabilities to show causation in line with their argument that negotiating prowess made the differences in outcomes.

In spite of these faults Sanoussi and Stevens make important contributions. Overall, their work provides a detailed, exploratory look at the EPA outcomes and gives a glimpse into the role of negotiations in the outcomes. First they deal with the outcomes of the EPAs negotiation at the two levels of negotiation- the all ACP level and at the regional level. For the negotiations at the all ACP level, (Sanoussi, 2011: 45-88) does show that ACP states were successful in extracting useful concessions from the EU. These included the desire by the ACP states to have the EU provide special and differential treatment within the ACP group, greater flexibility in liberalizing/transitional periods and non-binding EU commitment to provide EPA adjustment related development assistance. Sanoussi thus highlights the balanced, give and take integrative nature of negotiations at the EU-ACP wide level.

On explaining the intra-ACP variances however, Sanoussi and Steven's assertions have not been substantiated. Although not starting out with an express analytic intention to compare and explain the relative success of various groups, they provide indicators (based on the ACP

and EU negotiating mandates) of evaluating success of outcomes the nature of concessions. These indicators²⁹ include; liberalization schedules and exclusion percentages (for WTO compatibility), effects on regional integration (for regional integration), loss in revenues and possible compensations (development) and if the EPA result in better or worse trading terms than the existing pre-EPA preferences (for Lome Acquis).

Finally, one of the most compelling attempts at explanation of EPA's (preliminary) outcomes is the one given by Ulrike Lorenz (2012) where she describes the two-tire puzzle of ACP strength in defending against the EU as well as variances within the ACP regions distribution characteristics of the outcomes. In an attempt at a cogent explanatory variable, Lorenz argues that the variances and ACP strength can be explained by the negotiating structures of different ACP regions and the role of ACP regions regional hegemon. Her arguments are taken up in section 4.6.

Table 4, below, gives a summary of the different hypothesis, theoretical suppositions and expectations on the patterns of wins and concessions when the EU is pitted against the ACP states as outlined in section 2.2 above. Some of these indicators will be used in evaluating the ACP regions states (and regions) preferences before the international negotiation and after the negotiations.

²⁹ These indicators were actually outlined by the ACP states themselves as their objectives for the EPAs.

Table 4: Suppositions on determinants of Outcomes of ACP-EU economic negotiations

Scholar	Argument	Theoretical leanings	Explanatory variable
M. Farrell, 2005	EU's realist interests - 'to secure for itself continued market access and privileged economic status in the continent's [Africa] emerging markets	Realist	Economic power
Elgstrom, 2005:	EU driven by desire to promote <i>a partner identity</i> – 'special ties between the EC and Africa, in a special responsibility for the EC in economic complementarity and possibility of mutual benefits, and in interdependence between rich and poor'	Constructivist	Economic power asymmetries
	'the prediction must be that the expected outcome in any EU negotiation with any weaker countries will be closely linked to the initial position of the European Union' (Elgstrom, 2005: 187)	Liberal theory	Coalition inflexibility
Lorenz (2012)	'...the negotiations were rather determined by regional dynamics, different negotiation structures of individual EPA configurations, and the role of regional hegemons than by the EU's actions and positions. Lorenz (2012: 4)		Negotiation structure, Regional hegemons
ACP and EU 2002	'the ACP should be guided by the overriding principle of unity and solidarity in their approach to the		

	EPA negotiations. On issues of common interest to all ACP States, it will be easier for the ACP to secure a better deal from the EU if they negotiate collectively than if they negotiate at an individual, regional or subregional level...’ ACP Negotiating Mandate		Coalition size
Ravenhill	“Economic weakness constrains the range of negotiating tactics available to the ACP states”	Liberal theory	Asymmetrical Interdependence
Heron, 2010	Political bargain, signaling and band-waggoning	Liberal theory	Domestic politics, and economic dependency
Girvan, 2009	Dependency and EU’s threats for market withdrawal	Liberal theory	Negotiation dexterity, Asymmetrical interdependence
Bilal and Stevens, 2009	‘the picture that emerges is entirely consistent with the hypothesis that countries have a deal that reflects their negotiating skills and the EU’s interests: that countries able to negotiate hard, knowing their interests (which were not incompatible) with those of the European Commission have obtained a better deal than those lacking these characteristics’ (Bilal and Stevens, 2009: 4)	Liberal theory	Negotiation competence Asymmetry
Tussie and Saguier (in Bilal, Lombaerde and Tussie 2011)	“We argue that that the bargaining power of states in trade negotiations relies on at least four dimensions:”	Liberal theory	Relative market size Type of coalition

			State, labor, civil society alliances
			Domestic institutions
Alain Lempereur	It is easier to negotiate with countries that are already bound by a privileged trade or economic agreement with the Union		Relationship

2.3 *Beyond Asymmetrical Interdependence*

From the sketchy work done on explaining African- EU EPAs (both theoretical and empirical) a few points can be made which I will go over briefly in this ultimate section on the theoretical chapter. These observations on extant hypotheses and suppositions on EPAs are used as foundations for my empirical work in chapter four. One, there remains a scarcity of empirical research on African states' and regions' intra-regional preference formation and negotiation dexterity. While Bilal and Stevens have made some observations about what they call 'hard bargaining', there are no studies on the typologies of negotiating strategies and successes of ACP states in EPA negotiations.

Two, there appears to be a divergence between theoretical clarity and empirical inexactness in the variables attributable to causation of outcomes. This understandably complicates attempts at some neat generalization of outcome causation. Thirdly, and most importantly for this research, since asymmetrical interdependence (trade dependence and tariff vulnerability) emerges as one of the most hypothesized putative factor in attributing causation, a question arises as to if empirical cases validate these theoretical assertions. As seen above (section 2.1 and 2.2), one of the most consistently occurring explanatory variable for negotiation outcomes

is asymmetrical interdependence. According to Keohane and Nye's widely abiding definition, the negotiating success of a region or state would most likely be inversely linked to that state's (or regions) dependency on the counterpart negotiating state or region. The logic of asymmetric interdependence in EU-EPA negotiations would however imply that we should expect to see the ACP states' level of negotiation success rise as their trade dependency decreased. The logic of negotiation success based on dictates of asymmetrical interdependence would predict an inverse relationship between success and level of dependency. Does empirical evidence affirm this hypothesis? Christopher Stevens provides a very neat categorization of the putative dependency levels of ACP states and classifies them into three groups: the preference dependent non-LDCs (most dependent); countries with a non-reciprocity safety net - primarily LDCs (less dependent) and three, non-sensitive exporters - mostly oil exporters (least dependent). Countries less dependent on a reciprocal treaty (mostly the ACP LDCs) would for instance get better outcomes than those more dependent on achievement of a WTO compliant reciprocal agreement (the ACP non LDCs).

However, if the outcomes do not confirm this prediction, as the outcome variation of ACP regions and states suggests, then we are compelled to re-think the cogency of asymmetric interdependence as a critical factor in determining outcomes. Rather than, or in addition to asymmetrical interdependence we have to look for a better, more empirically grounded organizing pattern to these outcomes. The empirical task must address three questions: One, does the EU's success corresponds to the variances in ACP regions' economic dependency or negotiation dexterity? Two, do the variances within African states (or regions) correspond to the degrees of asymmetrical interdependence with the EU? And three, if the veracity of the questions above is discounted by empirical evidence, then what principle might we conjecture to provide a more compelling pattern of explanation? Such a principle would most likely take us into examining the role of norms in attributing the outcomes. Is it plausible that the EU was driven by the need to balance two conflicting norms - the need to achieve WTO compliancy while still maintaining some special (non-MFN) relationship with the ACP states? Such a

conjecture would predict that the states which fulfilled these two factors optimally would then have better outcomes than those which did not. Exploring the exigency and contribution of norms in the EU's preferences- particularly what Elgstrom calls the EU's *partner identity* - is a task that existing literature does not delve into with regard to empirical assessment of EPA outcomes. These concerns are taken up in the empirical chapter – chapter four.

3 METHODOLOGY AND RESEARCH DESIGN

In this chapter I discuss aspects of methodology (and methods) and how I intend to answer the research question. The research question of the study is: *What accounts for bargaining efficiency in EU-ACP Economic Partnership Agreements Negotiations?* The research output is expected to unveil a discernible pattern that sheds light on why we ended up with the kind of agreements reached during the EU-ACP EPA negotiations. As has been elaborated and will be even further in subsequent sections of this chapter and the following chapter (empirical chapter) the main aspect of explanation here is the efficiency in completion of the EPA negotiations. As such even though technically some aspects of the EPA negotiations are still ongoing, we still have enough empirical differentiation of efficiency (dependent variable) to allow a substantive study. Bargaining efficiency refers to the time taken to reach an agreement (ratification) of an EPA. The research seeks to examine and explain what accounts for the variable speeds in intra-ACP ratification of EPAs as well as what accounts for ACP states' collective resistance power against the EU into a speedy EPA conclusion.

The chapter is divided into several sections. The first section explores and muses on the ontological leanings of the research. This ontology is referred to as qualified positivism. Qualified positivism is an ontological disposition which avers that there is some relative stability to factors (social, regimes and material) that influence states' decisions in international relations. However, such a disposition does not claim the immutable objectivity of explanatory variables from agency orientation. Causal variables in are subject to change through ideological re-orientation of interests, ideas and norms. As the section avers, what matters most then is the relative stability of the causal power of any variable. Following this is a section that outlines the research design. The research is a disciplined *configurative* and *heuristic case study* that compares the efficiency performance of different negotiating ACP regional

dyads (all against the EU) and tries to locate the determinants of negotiating success (in efficiency and distribution characteristics of outcomes). The third major part of the chapter concerns the description of the data analysis which examines the overall correlations between outcomes and putative determinants of negotiation outcomes and uses analytic induction to trace cogent connections between the variables for negotiation outcomes and its putative causal variables.

3.1 *Qualified Positivism – On Ontological Reflection*

In the introduction to his book, *Agents, Structures and International Relations*, Colin Wight refers to politics as a 'terrain of competing ontologies' and that 'understanding the ontological differences that lie at the heart of competing visions of the world should be the aim of any properly conceived critical discipline of IR' (Wight, 2006:2). It is therefore befitting to make a reflection on the ontological variations in IR and how these foundations affect negotiation analysis, before embarking on an outline of intended methods. Negotiation outcomes and the general evaluation of outcomes of conflicting state and business interactions have been studied from the perspectives of different disciplines, but mostly Economics (where game theory dominated for some years), Political Science (where the propensity of power was seen as the currency of negotiation) and more recently by Psychology (where the role of emotions, brain chemistry and social influence in negotiation outcomes is examined). Whether in Economics, Political Science, Sociology or Psychology, the objective of these disciplines' study on negotiation processes and outcomes is often to identify patterns or tracks that link the negotiation processes and actors to the outcomes. The purpose has been the development of functional theories that illuminate on a causal relationship between the outcome and the process and actors which produce them. The ontological foundations in all the different disciplines could be positivist or constructivist, the preferred approach of the scholar being determined by their belief, their persuasion, about that most fundamental of ontological contest on the accurate relationship between structure and agency. Therein of course lies our first problem with regard to such definitive ontological distinctions in social science enquiry –

the idea that the ontological orientation that one assumes is dependent on their *belief*³⁰ rather than an objectively verifiable persuasion. In this short reflection on ontology, I outline the ontological foundations of my research as well as outline why I think the view of rationalist-constructivist approaches as being ontologically exclusive is unnecessary and hence often mere academic intransigence. While the two views may certainly call for distinct differences in methodology, their existence as exclusive categories of ‘what truth is’ is questionable. As I argue, the separation of ontologies into positivism and constructivist reflects an irresolvable question in social science of if there is, or what is the most elemental, atomic cause or explanation of social behavior.

Most scholars in the philosophy of social science make reference to the two dominant strands of ontology in IR, positivism and constructivism. In *Agents, Structures and International Relations* Colin Wight has made a bold broach into what may be a third ontology – scientific realism. But Jonothan W. Moses and Torbjorn L. Knutsen, in *Ways of Knowing: Competing Methodologies in Social and Political Research* see scientific realism as a fledgling ontology that is yet to make a ‘noticeable impact in the practice of social science’ (Moses and Knutsen, 2007:11). A less pithy classification is that of Donatella Della Porta and Michael Keating (2006) who outline four separate ontologies which in addition to positivism and constructivism have what they call humanistic and interpretivist ontologies.

My discussion will focus on the substance of the positivist-constructivist differences. As Wendt observes, ‘all theories of international relations are based on social theories of the

³⁰ A belief is defined as an acceptance that a statement, supposed fact, etc., is true; a religious, philosophical, or personal conviction; an opinion, a persuasion (from the Oxford Dictionary of English).

relationship between agency, process, and social structure' (Wendt, 1992: 422). The essential distinction in positivist vs. social constructivism ontological disputes is the agent-structure problem and the independence of each from the other. Here I emphasize that this is the putative view which I actually think misconstrues the real divergence between constructivism and rational choice. While positivism is thought to regard social enquiry from a belief of there being an objective truth that is independent of our knowledge or manipulation of it -what Wight calls the distinction between facts and values (Wight, 2006: 20), - the constructivist contend that there is no independent reality that exists outside of our view of reality but that reality is discursively and socially constructed and hence changes from time and place. In international relations, a good illustrative example of the disputation in this debate has been the question raised by Alexander Wendt, a stalwart of social constructivism; does anarchy exist outside of and irrespective of states perception of it? While rational choice theories have assumed that such an 'objective' thing as anarchy exists, social constructivism avers that anarchy does not exist outside of states' willful conception and utilization of the concept. Thus in constructivists view, anarchy is only a 'social fact' and not an objective reality that exists outside of states' view of it.

How do these contentions influence work in negotiation analysis? The basic contention between positivist³¹ and constructivist ontologies is on the independence of structure from

³¹ In this chapter, the tem positivist is used very cautiously. In my case the chief binding 'positivist' attribute held is the aspiration for finding certain stable causal regularities. In this case my work might be described as positivist. And while the work does aspire to the possibility of uncovering a Deductive-Nomological (D-N)

agent. Colin Wight refers the positivist position as encompassing four beliefs namely: (1) the unity of science, (2) the distinction between facts and values, (3) the belief in regularities and (4) commitment to an empiricist epistemology (Wight, 2006: 20). As Andrew Moravcsik sees it, 'what distinguishes rationalist and constructivist analyses is not, therefore, the simple fact that state and societal actors hold ideas consistent with their actions, but the *causal independence* of those ideas—their source, variation, and the nature of their link to policy' (Moravcsik: 2005: 227). Moravcsik therefore emphasizes element number 2. However, as Jeffrey Cherkel puts it, constructivists dispute such supposed putative independent existence of structure out of the manipulation of the agents. 'Constructivists emphasize a process of interaction between agents and structures', where the ontology 'is one of mutual constitution' (Cherkel, 1998: 326). From a constructivist point, the structures we use to explain human behavior are therefore not factually objective, as positivists might contend, from how we are socialized to regard them.

This ontological distinction is not always clear. It is often depicted (Barnett, 2008:162-3, Smith and Owens, Meyer and Strickmann, 2011, Dessler, 1999: 123- 137) as though the main constructivist contention is on the role of norms and ideas in driving policy (behavior) which rationalist are supposed to dispute. As Dessler puts forth the argument, Social Constructivism is the study of norms and identities. This view is given more credence by Wendt (in Wendt, 1992: 392) who criticizes rationalist approaches for having a static view of state's identities and interests. This is not the case. In rationalist approach, ideas and norms too are important and Cherkel's contribution has been to clarify the fundamental assumptions of constructivists and

model of explanation, it does not claim, As Wight avers positivists do that such a model of explanation is the only valid way of establishing or demonstrating truth. Thus while this work may feel or sound positivistic, it is primarily so in aspiration and not necessarily in its belief as an exclusive and superior account of scientific ontology.

divergence with positivist approaches as being the belief about the mutual constitution of agents and structure. As Cherkel points out, at issue is not the role or import of norms in influencing state behavior. At issue between positivists and constructivists is if norms merely *constrain state behavior* (positivists) or if beyond constraining behavior norms also *constitute actor interests and identities* (Cherkel, 1997: 473). As misleadingly depicted (even in the debates of Cherkel and Moravscik) therefore, the divergence of belief between these ontological dispositions is not on what variables (interests vs. norms, or preferences vs. ideas, or interests and power vs. identities and ideas and norms, etc.) that we use to explain state behavior, but the extent to which explanatory variables in social science are regarded as being factually independent of agent manipulation or orientation. Or in the words of J. Samuel Barkin, the extent to which ‘what actors do in international relations, the interests they hold and the structures within which they operate are defined by social norms and ideas rather than by objective or material conditions’ (Barkins, 2003: 326). Thus using, isolating or highlighting norms as causal variables – as this work does- does not mark any work or scholar as constructivist. Norms are not an exclusive province of constructivists. What marks one as belonging to one or the other of these ontological dispositions depends on their explanation of the foundations of the normative preferences that a state may hold – are they constraining or constitutive?

In my view however, the positivist-constructivist contention about the independence of structure from human agency is one steeped in factional intransigence. The exigent ontological question is not one of the independence of structure from agency but one of how to regard (ontologically) the stability of structure from agent influence or vice versa. Reality in social science is based on human behavior which is changeable over time. In this sense I agree with Wight who disagrees with positivist’s ‘separation of ideational content from the material conditions of possibility’ (Wight 2006:15). After all, many aspects of what are regarded as aspects of structure in social science – states, fear, competition, currencies, aggression, alliances, cooperation, identities, rational instrumentalism, beliefs and so on, – are obviously

based on human understandings and socialization. Positivists cannot therefore credibly entirely divorce such aspects of structure from agent construction. But on the other hand, there is regularity in human behavior? Human behavior is not necessary capricious. It has stability, an order to it, predictableness. Social human behavior can be relatively stable and predictable conditioned (or socialized, if you will) based on the reliability of response and consistency of expected outcomes when exposed to certain stimuli (threats, interests, references, common norms, identities, friendly overtures, anarchy, etc.). So, while the structure is most certainly not entirely independent of human design or manipulation, still there are seemingly consistent patterns that define the relationship between structure and agency over time and hence some seemingly 'established' regularities of causation. However, such patterns of regularities are not timelessly 'immutable and independent' from the outcomes they cause. In a scientific sense therefore what establishes the force of a given regularity is the cogency of its bearing and its durability. Over a long time, such durability of influence of certain law-like regularities in procuring expected outcomes becomes regarded as the 'normal' or structure. As Parpora defines it, structure is a, 'patterns of aggregate behavior that is stable over time...or law-like regularities that govern behavior of social facts' (Wight, 2006: 127). Positivist ontology avers this 'normal' state through empirical elaboration on the correlations that produce such regularities. However, even when a stable law-like regularity is established, the explanatory strength of such a pattern is not its immutability, but its durability. In a sense therefore, what might appear as competing ontological dispositions can be seen as quite usefully related.

One can make an argument that states are socialized to behave as they do, (See for instance Zurn and Cherkel, 2005: 1045-1079). But if states are seen to act in a certain predictable manner over time, then it becomes incontestable that state behavior can be explained based on certain foundations- whether these foundations be preferences, interests, norms, identities, threats or altruism. It is these foundations that positivists refer to as structure – due to their stability and predictability. For positivists however, it is intransigent to proclaim the factual independence

of these variables (structure) from agency when many aspects of structure in economics and political science, such as instrumentalism, anarchy and fear, profit and loss, competition and domination, states, stock markets, democracy, militaries, and so on are based on social constructions and expectations and thus not entirely independent of human agency. On the other hand, since society is not in a constant state of upheaval everyday with new norms or ideas taking over, there is a stability of patterns of causation which positivistic approaches can usefully broach on. The question then is what determines the durability and potency of a given pattern of causation. While the positivist endeavor is to find the laws that govern social behavior so that we reach stable structures, the constructivist endeavor is to show how human socialization foments the formation or change in structure. As constructivists might aver, rhetorical framing might be one way of understanding the process of forming or changing structures. The constructivist endeavor might be thought of as more primal; what is the source of human persuasion? Essentially, what beliefs underlie the laws of human behavior and at what point can we be confident that we have reached the most atomistic cause/determinant of human behavior?

The rationalist-constructivist divide therefore is not one of exclusivity of beliefs but one of degree of the stability of a given structure-agency relationship. The dominant strands of International Relations theory, realism, marxism and liberalism, for instance are putatively regarded as being of a positivist orientation. However, using an example from classical and structural realism in international relations one can show why, if one goes to the primal question of what is the most nucleus essence of structure, we are left with unclear answers about the independence of structure from human agency. The father of classical realism Hans Morgenthau attributed states' disposition to conflict and war to *animus dominandi* - the innate

human need to dominate (Morgenthau, 1948). If one takes the meaning of innate to be ‘arising from the intellect or constitution of the mind, *rather than learned through experience*’³², Hans Morgenthau and other classical realists would therefore be more foundationalist than say Kenneth Waltz (in *Theory of International Politics*, 1979) who attributes the same disposition for conflict to the *fear* engendered by anarchy. While the ‘innate need to dominate’ is an immutable biological characteristic as Morgenthau thought and hence not socially constructed, clearly Waltz’s explanatory variables (anarchy and fear) are rooted in social constructions. The fear that states feel emanates from the social construct of anarchy and the expectation of how one state thinks of another. Fear therefore is a socialized response to a feeling of threat. Since anarchy is a socially constructed outcome of the division of people into sovereign territories called states and anarchy begets fear in states, Waltz’s explanatory variables (fear and anarchy) are clearly more socially constituted than the supposed biological predilection for domination. Structural realism therefore does have an element of constructivism in as far as we can ascertain that the fear engendered by the structure is through human design. For instance, in his critique of the democratic peace thesis Waltz concedes that ‘conformity of countries to a prescribed political form may eliminate some causes of war; it cannot eliminate all of them’ (Waltz, 2000: 7-8). In this concession even Waltz, a consummate rationalist, tacitly admits that democracy, a ‘prescribed political form’ and human construct does mitigate states’ predisposition to war. This bolsters a view of the structure not as objectively independent but as subject to human construction and subjectivity.

³² Dictionary.com definition of innate. Italicized to emphasize the non-learning.

Even more straightforward admission of the constitution of ideas and values in the structural influences has been made by rational liberalists such as Moravcsik in (Moravcsik 1997: 525) in a variant of liberal theory he calls ideational liberalism. In ideational liberalism a state's preferences are directly attributed to social identities and values, and thus other things being constant, conflict or cooperation, can be predicted on the basis of convergence of such values and identities. Thus in real usage, it seems like even putative rationalists like Moravcsik do not deny some level of mutual constitution in structure and agency.

Constructivists too have been plagued by what are primarily methodological (rather than ontological) weaknesses of establishing a cause and effect relationship. In as far as establishing causal mechanisms is a critical pursuit of social science this has presented some problems for constructivists and some are even seen as abandoning such aspirations and contesting the centrality of causation in social sciences³³. A weakness in the extent to which the causal effect of constructivist variables is demonstrated has been a criticism widely leveled against constructivists. As Björkdahl has observed, the three most compelling models of constructivist causation proposed have been socialization, learning and propaganda (Björkdahl, 2010: 12). This lack of prove of agency becomes the constructivist Achilles heel. As Cherkel has observed, constructivism is plagued by 'empirical ad hocism' and lacks 'mid-range theories of agency' (Cherkel, 1998:325). This methodological weakness does not discount the cogency of the constructivist ontology. However, since causation remains a central tenet in social science, if any contention aspires to be scientific credible then it must aspire to some considerable level of empirical demonstration (not necessarily verification) of causality. Positivists are right in

³³ See Björkdahl, 2010 for instance.

their emphasis on empiricism and more empirically compelling in making predications or generalization. Constructivist inspired methodologies can on the other hand usefully trace process of ‘construction’ of a social phenomenon.

In the case of this dissertation, the quest is not to assert the universal existence of some immutable laws in asymmetrical negotiations, but to establish if indeed some law-like regularity does exist in the patterns of EU-ACP EPA efficiency. Similarly the quest is not to demonstrate any process of socialization or ‘construction’ or learning of any norms. Methodologically therefore, my approach is bound to be more positivistic, not because I discount the constructivist ontology but because of the empirical aspiration for finding credible patterns of causality – or structure.

3.2 The Research Design

3.2.1 Case Selection and methodological justification: ACP-EU EPA negotiations as a Heuristic Case Study

As in the definition of Keith Punch, the research design here is intended to situate the research ‘work into the empirical world’ (Punch, 2005:63). In order to set out the research design and the empirical process that I intend to use for this work, I will reiterate the research question and set out the considerations which informed the selection of the case. As a heuristic case, the EU-ACP EPA negotiation is used to help illuminate on new (normative) variables that might be more causally cogent in explaining the negotiation outcomes.

The research question in the dissertation is: **What accounts for bargaining efficiency in EU-ACP Economic Partnership Agreements Negotiations?** As clear in this question the empirical material for consideration is the case of EU negotiations for an Economic Partnership Agreement with the African Caribbean and Pacific (ACP) group of states. The negotiations

began in 2002 and are still ongoing. This section seeks to elaborate on the case and why the EU-ACP case is a theoretical minefield worthy of the most elaborate scholarly analysis. While the negotiation with some regions and states are still ongoing as has been intimated before, the main aspect under consideration (efficiency in completion) of the negotiation can be analyzed without being compromised by the incompleteness. This is because at present, ACP states are already grouped into the three categories of initialing, signing and ratification, which will remain as such since those that have ratified are ahead anyway and the rest will only try to catch up. The EPAs between the ACP states and the EU are important for analysis for three main reasons:

- a) They represent one of the oldest, lasting dyad of formalised North-South economic relations. It's a rich case for development of theory of asymmetrical negotiations.*

Upon coming into effect of the EU's Treaty of Rome in 1957, the then EEC states established what they called 'special relations' with the conglomerations of states that came to be known as the ACP. The uniqueness of the EU-ACP relations has been the deep level of formalization with the two partners establishing multi-year conventions (Yaoundé, Lome, Cotonou) to guide their relations. Although the EU has economic and political relationships with other developing former colonial states such as India, Egypt, Morocco, Tunisia, Jordan and many other states, the ACP- EU relations have been considerably more formalized not only with the legally binding international agreements, but also through a centralized ACP secretariat (in Brussels) and also through regular institutional interactions such as the joint Parliamentary Assemblies of ACP MPs and European Parliament MPs. Thus the EU-ACP relationship inarguably represents the most institutionalized form of what has been referred to as North-South Cooperation. The state and conduct of EU-ACP relations to an extent not only reflects but also shapes the conduct of other attempts at North -south relations (for instance EU-North Africa cooperation). How states in such an asymmetrical relationships therefore relate, how they aggregate their interests, how the institutions they form constrain their preferences and behavior, what informs the attitudes of their interactions and how eventually asymmetrical

economic relations change, are all fascinating lines of enquiry that could very well be pursued through the study of EU-ACP relations. The high level of institutionalized relations (what Ravenhill calls *clientelism*) is also very relevant for this study since it's a case in which the dyads have a great level of historically institutionalized relations. This is why I regard the case as a rich one for development of theory of asymmetrical economic relations and negotiations.

b) Two, they rank high in pioneering of region-to-region FTAs and thus have - Implications on the conduct and future of supranationalized-bilateral economic negotiations.

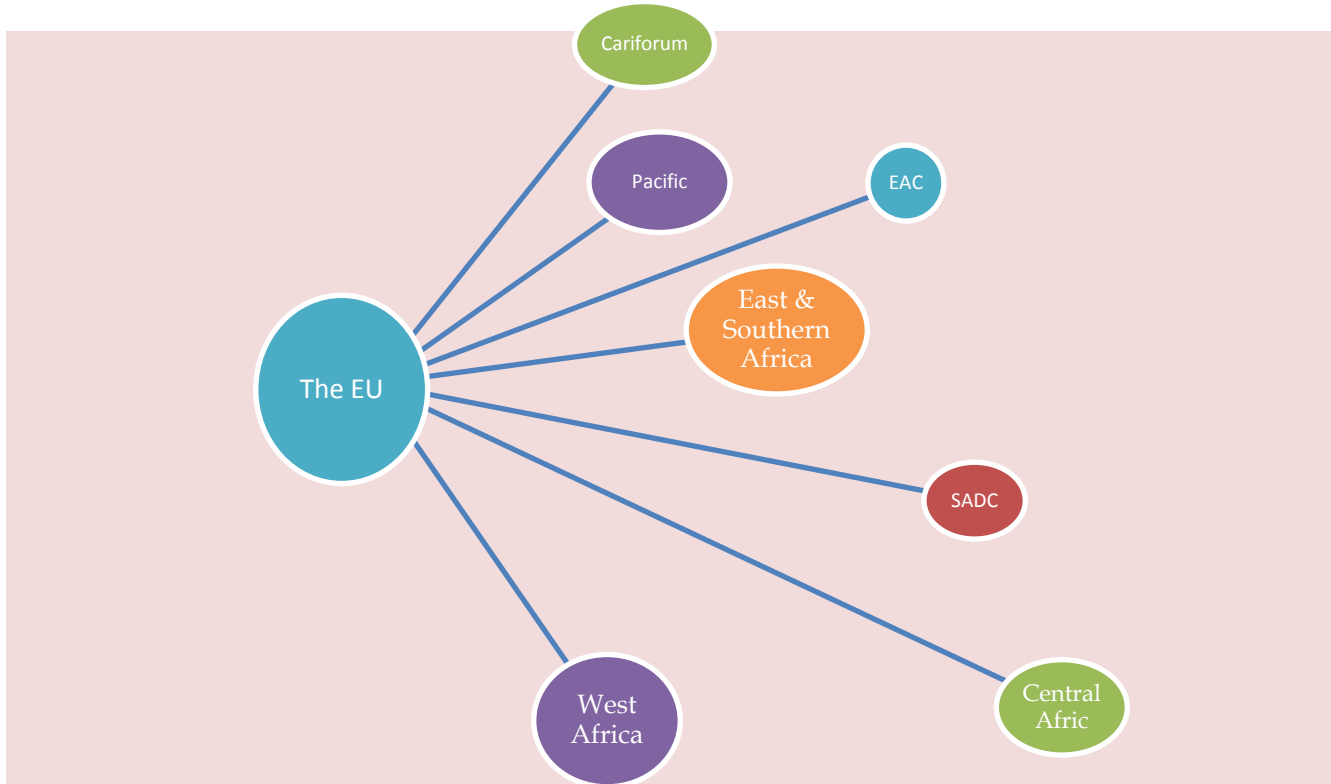
While Free Trade Agreements (FTAs) and other forms of Regional Trade Agreements (RTAs) have become ubiquitous, there are only few cases of region-to-region FTAs. Most of these region-to-region have the EU as one partner. Examples of these include the EU-Central America, EU-Colombia/Peru and EU-Overseas Countries and Territories. The EPAs (at least as it was conceived) were also meant as a region-to-region FTA between the EU and respective ACP regions therefore will rank high in the evolving development of region to region FTAs. Negotiation of region to region FTAs is only pioneering and as can be deduced from the case of ACP states, regionalized negotiations present unique challenges in the aggregation of regional preferences. While the EU has been rather successful in converging all member states interests under the tight guidance of the Commission, such levels of discipline in locking all states in a region into a single coherent voice is difficult to develop. As the EU itself has experienced attempts at regionalized negotiations with both the ASEAN and Mercusor have failed. Regionalised negotiations with the ACP group have also largely failed with the exception of the Cariforum group which maintained a highly supranationalised negotiating college throughout its negotiation with the EU. Even the highly acclaimed initial solidness of the EAC group in 2007 is under a severe test. All other regions in the ACP have resorted into very loose regionalized negotiations with each state at the helm and driving its objectives. Eventually, (with the exception of the Cariforum 15 states) actual negotiation, signing and ratification is done by each of the ACP state's governments. Thus the case of EPAs presents an

interesting study into the pitfalls and prospects of regionalized negotiations. Why are some economic regions able to hold supranationalised negotiations while others fall apart? What are the pre-conditions for successful supranational negotiations? The EU-ACP case can be instrumental in answering these questions.

c) Since the ACP has 7 negotiating regions (sub-dyads), EPA negotiations provide a richer case of intra-dyad comparison.

For purposes of systematic comparison of negotiating dyads with the objective of establishing some possible causal patterns, the ACP-EU dyads offer an excellent case. The EPA case is in fact not just one with 7 regions but one where the EU is simultaneously negotiating a big number of states that are loosely joined. We are able keep the EU on one side as a constant, and thus see how the differences in the ACP regions and states produce differences in outcomes. The EU-ACP case can be seen as a two-tier case study. Tier one explores the comprehensive EU-ACP super-dyad as a whole and tries to answer the question of what explains ACP's relative strength in resisting the EU in spite of its putative material weakness? Tier two examines the variances within ACP groups and tries to account for these variances in efficiency. In addition examining and using the entire super dyad (EU vs. 7 ACP regions) avoids the pitfalls inherent in a using a single EU-ACP dyad (e.g. EU-Cariforum or EU-West Africa) as a basis for generalization on the entire ACP. This does not of course eliminate the pitfalls associated with possible representativeness and generalization with regard to other asymmetrical negotiations. The case is 'complete' in as far as it includes all the ACP regions and their respective negotiations with the EU.

ACP Dyads against the EU



This research is conceived as a *disciplined configurative* and *heuristic case study* which uses the case of EU-ACP Economic Partnership Agreement negotiation to examine and compare the theoretical cogency of existing theories in explaining the outcomes of these negotiations. ‘A disciplined configurative case study uses established theories to explain a case’ (George and Bennett, 2005: 75). As George and Bennett observe, beyond mere explanation, a disciplined configurative case can contribute to theory testing or impugn established theories, ‘if theories ought to fit it, but do not’ (George and Bennett, 2005: 75). Inevitably therefore, the study has a formative deductive bent which seeks to empirically thrash out the cogency of some existing theoretical suppositions on outcomes of asymmetrical economic negotiations. Chief of the supposition under scrutiny is the putative role of asymmetrical trade dependence in procuring

an expeditious (hence efficient) negotiation. The study is a disciplined configurative case with regard to its interest in the relative explanatory power of two broad theories [complex interdependence vs. normative institutionalism] in explaining the outcomes of these negotiations. The study is heuristic in as far as the empirical data and analysis seek to propose an alternative hypothesis on potential causal mechanism of EPA outcomes beyond asymmetrical interdependence as most scholars so far have averred. Beyond asymmetrical interdependence, an alternative hypothesis offered is that rather than asymmetrical interdependence, the success of the EU in getting an ACP state to ratify can be predicated on the ACP states' degree of institutionalization of the credibility (belief) that EPAs would lead to better economic fortunes for the concerned state. (This is based on the findings already established from the data analysis process and discussed in detail in chapter 4.)

By bargaining effectiveness we simply mean bargaining success of respective parties based on how well the EPA outcomes reflect each party's pre-negotiation objectives on a number of what were the most contested issues in the negotiation. A description of the research design as it involves definition of the dependent variable; the design of testing kits for asymmetrical dependence vs. institutionalization will be described below. However, the immediate following section explains further on the merits of the research question base on the research gap that existing in explaining EPA outcomes.

3.2.2 Method: Variables, Data and Data Collection

The empirical process proceeds in five phases as described below.

- Phase One: Lay out the dependent and independent variables – section 4.2.
- Phase Two: Test regularities in correlations of the deductive variables in question [relationship between asymmetry and intra-ACP variance] – Section 4.3.
- Phase Three: Conduct conceptual interviews based on which new explanatory variables

are established or existing suppositions affirmed- Section 4.4.

- Phase four: Through use of standardized (Subjective Value Index) surveys examine intra-ACP variations in hypothesized new variable [degree of intra-ACP convergence in EPA utility] from main EPA negotiators. Section 4.5 and 4.6.
- Phase five: Use analytic induction to analysis the data and make inferences

The section below outlines each of these four steps. In the elaboration, part two and three are joined into one (section b).

3.2.2.1 Phase One: Mapping the Negotiation Zone: The dependent variable and defining success:

The central objective of mapping out the zone of negotiation over the main contested issues in EPAs is to establish the centrality of efficiency (rather than distributional) outcomes as the key intra-ACP variance in EPA outcomes. Because it is found that there are no significant differences with regard to distribution characteristics of EPA outcomes among the ACP states/regions, this highlights the justification for examining intra-ACP efficiency differences as the most poignant intra-ACP puzzle in outcome causation.

To operationalize 'negotiation success' I map out the negotiation zone by isolating outcomes in eight key areas of what were most contested issues in the negotiations. To frame an outcome as a win for one or the other party, the outcomes in each of these areas is compared to respective regions' pre-negotiation objective. Table 5 below shows the tablet used to create the negotiation zone. As the table 5 shows, the distribution characteristics of EPAs are based on a set of eight most contested issues in EPAs between the two parties. This issues largely defined the 'pie' that was to be shared. By outlining the pre-negotiation (or initial) bids that both parties in the dyad placed for each of these issues, and comparing these pre-negotiation bids to the final agreements (as per the Interim EPA), we can deduce the nature of concessions and

wins for each of these issues. Data on the final outcomes is derived mostly from the texts of the EPA agreements.

Table 5: Tablet for Creation of the Negotiation's Zone of Agreement

Key Contested Issues in EPAs Negotiation		ACP pre-negotiation position	EU pre-negotiation position	Final agreements	Who wins? Why?
1.	Substantially all trade in %			What party's pre-negotiation position is in most agreement with final agreement?	
2.	Duration of FTA liberation				
3.	Liberalization Compensation				
	Elimination of Export taxes				
5..	MFN				
6.	Non-execution clause				
7.	Negotiating time frame				
8.	EPA comprehensivity				

Data on the initial (pre-negotiation position) is mostly derived from the negotiating mandates of the EU and the ACP states as well as other document which record respective parties evolving position over the course of the negotiating process.

Independent Variables: Trade asymmetry and Tariff vulnerability vs. belief convergence in EPA Utility

A primary deductive contestation which drives this study is to examine the role of material dependency on the propensity of ACP states to concede. Do those states that were more materially dependent or vulnerable concede faster than those that were less vulnerable? This supposition, as elaborated in the theory section would be the main argument of efficiency by complex interdependence theorists. Is this the case? The role of trade dependency in influencing acceptance of EPAs is compared to the variance in degrees of states' belief convergence on the credibility of EPA objectives. Belief convergence is a 'new' variable of EPA outcome explanation that emerges from my initial conceptual interviews with the negotiators. This section thus introduces the two independent variables. Their influence (correlations regularities) is tested in the empirical chapter.

Asymmetrical interdependence (or dependence) is measured using ACP states level of export dependence on the EU (percentage of exports to the EU as percentage of total exports). This measure has previously been used by among others Hirshmann (1945), Crescenzi (2003) Keohane and Nye (1977), Barbieri (1995, 1996, and 1998) and Gartzke (2003). This is to show the degree of asymmetrical dependence and vulnerability. Theoretical supposition of the asymmetrical dependence thesis is that the more trade dependent states would capitulate fastest. Data on trade dependence is derived from the European Commission Directorate of Trade (DG, trade) statistics portal. The degree of vulnerability due to tariff re-imposition under the GSP system is measured by the percentage tariff increase as a proportion on total export value expected in case of loss of Cotonou preferences. The data on tariff jumps is obtained from the 2007 Overseas Development Institute (ODI) report 'The Costs to the ACP of Exporting to the EU under the GSP'.

The degree of belief convergence is measured using an adjusted questionnaire survey known as the Subjective Value Index (SVI) designed by Jared Curhan to measure the values that negotiators consider most important in a negotiation. SVI was originally created to evaluate what values negotiators privilege in the negotiation process. Curhan set out to measure the emphasis that negotiators placed on four factors namely; instrumental benefits, self-regard, suitability of process and relationship. My adjusted SVI is designed to measure *Credibility of Negotiation Objectives* (belief convergence on suitability of EPAs among the ACP states), the variances in intra-ACP degrees of satisfaction from instrumental benefits and variances in intra-ACP states degree of *asymmetrical expectations*. More on the SVI questionnaire is outlined in section 3.2.2.4. The hypothesis on the connection between these three attributes is that it is those ACP states which have greater levels of belief convergence with the EU, that are likely to not only accept an EPA faster (ratify an EPA faster) but are also likely to feel more satisfied with the putative instrumental benefits of the outcomes.

3.2.2.2 Phase Two: Test Cogency of Independent Variables Correlation to the Dependent Variable

Using very basic statistical tools (Scatter plot graphs on excel) the correlations between the dependent variable (speed to ratification) and independent variables (% of export dependence and percentage in tariff jump under GSP) are tested. Having found little evidence that ratification (after 2007) was highly predicated on economic vulnerability the research then seeks to establish explanations on potential explanatory variables for the intra-ACP speed to ratification of EPAs through conceptual elite interviews. This is done in Phase three.

3.2.2.3 Phase Three: Semi-Structured Conceptual Elite Interviews to map out new variables

Initial semi-structured conceptual mapping interviews were conducted in order to establish from the negotiators what their main motivations were in either plunging ahead with an EPA or withholding ratification/notification. The semi-structured interviews were done with EU officials and negotiators as well as ACP officials and regional negotiators. The main thrust of the interview questions for the EU officials was on if they thought that there were regions or states which had better prospects of signing on to EPAs faster, and if so why were those

regions/states more disposed to accepting EPAs? For the ACP officials and regional negotiators, the question was on what were their main motivations for entering into an EPA or being opposed to it. It is from the conceptual mapping interviews that the variable on belief convergence on EPA utility was identified as a potentially strong indicator/variable for explaining variance in ACP states' propensity to accept an EPA. Table 6 below lists the officials who were interviewed as part of the conceptual mapping elite interviews on formulating new variables on explanation of EPA efficiency outcomes.

Table 6: List of Elite Interviewees for Conceptual Mapping

Elite interviews	Regions	Position
Shaheen Ali	Fiji/ Pacific	PS, Ministry of Trade and Industry, Fiji. main negotiator, EPAs
Christian Friis Bach	EU/ Denmark	Danish Minister for Development Cooperation
Sunil Boodhoo	ESA/Mauritius	Deputy Director, Intl. Trade Div.
Guillaume Gerout	ESA/Seychelles	
Morgan Githinji	ACP, Secretariat	Trade Expert, ACP
Peter Kiguta	EAC/EAC Secretariat	DG, EAC Customs and Trade Directorate
Myra Laporte	Seychelles	
Junior Lodge	Cariforum Negotiating Machinery	Senior Coordinator WTO matters Caricom
Loius Michel	EU Parliament	Co-President of EU-ACP Parliamentary group
Poul Nielsen	EU/ Denmark	Former EU Commissioner
Angelique Omulisa	EAC Secretariat	Regional Trade Policy Adviser, EAC
Jana Popelkova	EU Commission	EU, negotiator, Pacific
Athansia Rammos	EU, Commission	EU negotiator, EAC

Yaya Sow	West Africa	ECOWAS representation in Brussels
Remco Vahl	EU Commission	Deputy Head of Unit, on EPAs

Elite Interviews

The objective of an elite interview is to generate data for analysis and possibly to contribute to theory development. Elite Interviews are defined as those where the interviewees are well informed individuals, 'who hold or have held a privileged position in society and as such, as far as a political scientist is concerned, are likely to have had more influence on political outcomes than general members of the public' (Bogner *et al*, 2009:98). As far as this definition goes, the most important consideration was that those persons I interviewed should have been involved in the EPA negotiation process at some point in its 11-year history, and should be in a position to speak authoritatively on behalf of either an individual state, (state officials) or a regional economic community (RECs/EU). This latter specification thus eliminates those that may have been well versed with EPAs but were from civil society groups.

In cases where the interviews were conducted in person (and recorded) I would describe them as falling proximally in the typology of the interviewer as co-expert, based on the typology developed by Bogner and Menz (2009)³⁴. Bogner and Menz isolate five other typologies which are: Interviewer as lay person, interviewer as authority, interviewer as accomplice and interviewer as critic (Bogner and Menz, 2009: 68). Since I had already read quite a good deal of

³⁴ In Bogner, Littig and Menz (2009). *Interviewing Experts*. Palgrave Macmillan: Basingstoke, Hampshire.

literature on the EPAs at this point, I was not totally uncritical to the responses of the interviewees. However, at this point my ideational disposition to the interviewee responses is as much as possible neutral. Even if I disagreed with them based on a contradiction or conflict in their information and another source, at this point I did not seek to challenge too strongly. In cases of direct or interview by phone, of course clarification would be sought or contradictions observed and then the interviewee would respond as they saw fit. Thus in classifying my interviews as co-expert, the emphasis is on the qualification, *proximally*. This is because from the interviews I was at times an accomplice, a critic and at times a lay person. In addition to collecting data, I was also sensitive to building trust in order to have access to them for the more substantive survey interviews. Moreover, my main concern at the conceptual level was to collect as many views on causation of outcomes as possible, then systematize them and derive the most plausible testable variable(s) and subsequently further examine those new variables more substantively using SVI questionnaires. The concerns, objectives, applications and potential pitfalls of an interview with interviewer as co-expert are outlined by Bogner and Menz are shown on table 6, below.

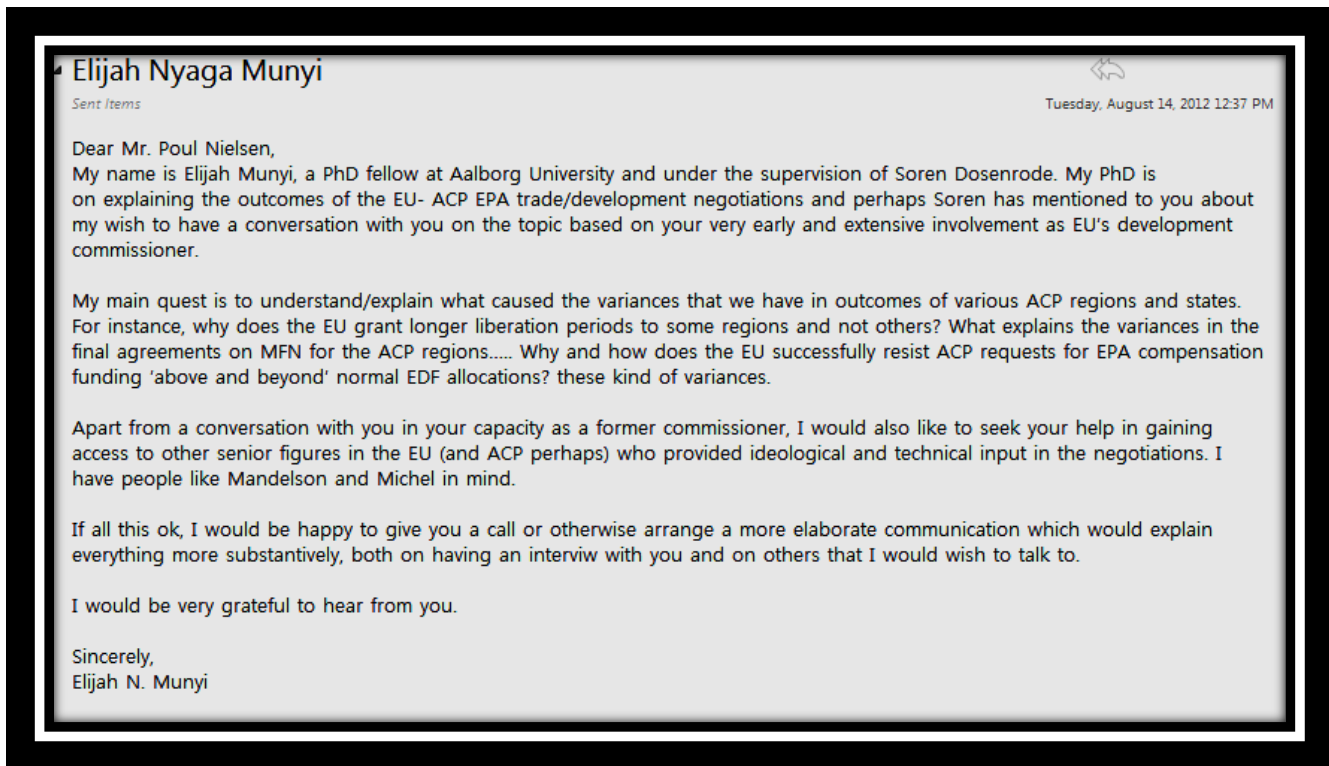
Table 7. A Typology of Interviewer as co-expert

Dimension of typification	Indications of the communication situation	Preconditions for the interviewer	Interview and question style	Possible advantages	Possible disadvantages	Main area of application
Specialist competence	Symmetrical interaction	Mastery of specialist vocabulary, knowledge	Oriented towards dialogue, repeated supplementary questions and rapid exchanges	High density of facts	Interview remains within interviewees professional frame of reference	Exploratory systemizing expert interviews

Source: Bogner and Menz, 2009

In terms of sampling of the elite interviews, I aimed to speak to at least two individuals from each of the seven EPA negotiating regions. In the conduct of the interviews, the interviews were given non-standardized lead questions and given a considerable leeway to explain their view of the EPA negotiation and outcomes. It was then my job as interviewer to distil from their responses, testable variables that were emerge from these interviews and that – when juxtaposed with other documentary evidence- seemed to have a bearing on the outcomes. Most of these interviews were recorded, while some of the respondents (such as Poul Nilson) choose to respond to the interviews in writing. Attached below is an example of an email sent on the 14th of August to an elite interviewee, Mr. Poul Nielson (a former EU Commissioner for Development) requesting his opinion on how to explain variances in ACP states/regions outcomes. As this email shows (and from the subsequent interview response received) the conceptual interviews focused on seeking the interviewee’s reflection on the possible explanations of variance in EPA outcomes. The interviews are not limited to any particular variable. Although the interviewer could, in some cases seek their view on a certain variable. On the whole the conceptual interviews went well, although from my evaluation of the substance of the negotiations, technical negotiators were ‘better’ experts, more informed and balanced than their political colleagues (RECs, ambassadors).

Box 1: Email Request for an Elite Interview



3.2.2.4 Phase Four: Standardized Survey through use of the SVI Questionnaire

From the conceptual interviews two key factors are established as having the greatest bearing on if a state/region was willing to conclude an EPA or not. These are: (a) A state's degree of suasion on the desirability of EPAs as economic catalysts, and (b) a state's degree of inflexibility on the demand to have the EU compensate such a state due to the fiscal losses from import tariff liberalization. The standardized questionnaires are thus conceived to measure (in a readily comparable manner) ACP and EU negotiator attitudes these two attributes in addition of course to the attribute on both parties (EU and ACP) degree of institutional entrapment. While semi-structured interviews are good for initial exploration explanatory variables, comparing responses from semi-structured interviews can be relatively difficult. To triangulate and in search of more readily comparable responses, the study chose to use a standardized questionnaire to measure the negotiator belief convergence. The questionnaire in use is adapted from the so called Subjective Value Index (SVI) questionnaire

developed by MIT (Massachusetts Institute Of Technology) Professor Jared Curhan. Subjective value refers to the social and emotional consequences of a negotiation (Curhan, Elfbain and Xu, 2006:4). Curhan invented this index to measure the subjective feelings of negotiators on four key domains of negotiation that his research established as 'measures of value' for negotiators. Curhan's SVI is then used to measure these four domains - (i) feelings about instrumental outcomes, (ii) feelings about themselves, (iii) feelings about the process and (iv) feelings about relationships that inform negotiators evaluation of the success of a negotiation process. It is instructive that the SVI is a very convenient tool for evaluating negotiations due to its standardized Likert-scale answers ranging from 1-7. As Dane Bertram defines it Likert Scale is a 'psychometric response scale primarily used in questionnaires to obtain participant's preferences or degree of agreement with a statement or set of statements. Likert scales are a non-comparative scaling technique and are one-dimensional (only measure a single trait) in nature. Respondents are asked to indicate their level of agreement with a given statement by way of an ordinal scale' (Bertram, 2006). Unlike the broad responses of the conceptual semi-structured interviews, here the interviewee responses and perceptions are more suitably constrained into a standardized form. Moreover, the four domains are also very suitably wide ranging so that they take into consideration elements that would be naturally considered by political scientists (feelings about instrumental outcomes for instance) as well as those factors that may be easily ignored by political scientists (feelings about themselves, for instance) yet which may have an important bearing on the negotiated outcomes.

One of the key aspects of the research question which is not addressed in antecedent sections of method thus far has been the question of an empirical investigation into explaining tier-one (EU-ACP dyad as a whole) efficiency outcomes. *What accounts for ACP's inordinate resistance to EPA conclusion from the EU considering the EU's putative power dominance in the negotiation?* The Standardized questionnaires are therefore conceived with two objectives in mind. One, the questionnaire is conceived as an encrypted measure of the degree of institutional entrapment of the EU in these negotiations so that the 'usual' rules of commercial engagement don't apply.

The second purpose is to measure the intra-ACP variance with regard to belief convergence and attitude to continued asymmetrical economic relations. This relates to the second tier (various EU-ACP regions dyads) question of *what accounts for the variable speed in EPA conclusion between the EU and various ACP states?*

Two slightly dissimilar questionnaires were sent to the EU and ACP negotiators. The EU negotiators received a shorter questionnaire (9 questions) which was primarily aimed at measuring the negotiators disposition towards institutional constraints of negotiating with the ACP states (institutional entrapment). In addition to institutional entrapment, the ACP questionnaires were aimed at measuring instrumental satisfaction and belief convergence with the EU's normative framing of the objectives and putative benefits of the EPAs. Attached below are the two (ACP and EU) SVI questionnaires used to measure the three key domains of my interest: (i) Feelings on instrumental outcomes - IO, (ii) Convergence in negotiator beliefs on EPA utility -CNO, and (iii) Negotiator feelings on institutional entrapment during the EPA process -NOI. SVI (a) was sent to ACP negotiators while SVI (b) was for EU negotiators. All sections of the SVI deliberately hold more questions than barely essential as a measure for confirming the consistency of the answers. On the following section, I further elaborate on the coding of the SVI questions under these three domains of interest.

An adjusted Subjective Value Index (SVI).

The Subjective Value Inventory (SVI)

SOURCE:

Curhan, J. R., Elfenbein, H. A., & Xu, H. (2006). What do people value when they negotiate? Mapping the domain of subjective value in negotiation. *Journal of Personality and Social Psychology*, 91, 493-512.

[Also featured in Thompson (2005) and Lewicki, Barry, & Saunders (2007).]

ABSTRACT:

Four studies support the development and validation of a framework for understanding the range of social psychological outcomes valued subjectively as consequences of negotiations. Study 1 inductively elicited and coded elements of subjective value among students, community members, and practitioners, revealing 20 categories that theorists in Study 2 sorted into 4 underlying subconstructs: Feelings About the Instrumental Outcome, Feelings About the Self, Feelings About the Negotiation Process, and Feelings About the Relationship. Study 3 proposed a new Subjective Value Inventory (SVI) and confirmed its 4 factor structure. Study 4 presents convergent, discriminant, and predictive validity data for the SVI. Indeed, subjective value was a better predictor than economic outcomes of future negotiation decisions. Results suggest the SVI is a promising tool to systematize and encourage research on subjective outcomes of negotiation.

ADMINISTRATION NOTES:

Items can be presented in any order. However, the order presented here is recommended. No headings should be used (e.g., Instrumental Outcome, Self, etc.). The attached version is intended to be used for negotiations involving two or more individuals. When the focal negotiation involves only two individuals, the words “counterpart(s)” and “outcome(s)” should be changed to “counterpart” and “outcome,” respectively.

SCORING:

Items 3 and 5 should be reverse-scored (i.e., a response of 7 becomes 1, a response of 6 becomes 2, and so forth). Next, items within each of the four sub-scales should be averaged (with equal weightings) to yield four sub-scale scores (i.e., **Instrumental**, **Self**, **Process**, and **Relationship**). If desired, a **Global** score can be calculated by averaging (with equal weightings) these four sub-scale scores. A **Rapport** score may also be calculated by averaging scores for Process and Relationship (with equal weightings).

The Subjective Value Inventory (SVI) for ACP States

IN EU-ACP ECONOMIC PARTNERSHIP AGREEMENTS NEGOTIATION 2002-2014

On the request of Elijah N. Munyi,

PhD Fellow Aalborg University, Denmark

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General Instructions: For each question, please circle a number from 1-7 that most accurately reflects your opinion. You will notice that some of the questions are similar to one another; this is primarily to ensure the validity and reliability of the questionnaire. Please simply answer each question independently, without reference to any of the other questions.

Important: If you encounter a particular question that is not applicable to your negotiation, simply circle “NA.” Even if you have not reached a definitive final agreement, please try to answer as many questions as possible. In your answers use the most up-to-date form of the EPA agreement that has been mutually agreed between your region/state and the EU.

IO

1. How satisfied are you with the current EPA outcomes—i.e., the extent to which current state of the agreements reflects your original EPA objectives?

1	2	3	4	5	6	7	NA
Not at			Moderately		Very		
all					satisfied		

2. As negotiators to what extent do you feel that the EPA current outcomes broadly reflect the wishes of (and are thus acceptable to) your most dominant domestic constituency (politicians and business)?

1	2	3	4	5	6	7	NA
Not at			Moderately		Strongly		
all					acceptable		

3. Do you feel that EPA outcomes are consistent with the principles of legitimacy laid down by EU and ACP negotiating mandates? (e.g. ACP-EU partnership, differentiation, regional integration and enhancement of development.)

1	2	3	4	5	6	7	NA
Not at			Moderately		Perfectly		
all					consistent		

4. As negotiators, to what extent do you feel that EPA outcomes accepted by your region were driven more by time constraints in negotiating deadlines rather than by a mutually agreeable consensus between the parties?

1	2	3	4	5	6	7	NA
Not at			Moderately		Strongly		
all					driven by time		

5. In view of the trade reciprocity between the ACP and the EU induced by EPAs, do you feel that the label of EU-ACP 'special relations' as conceived by the Treaty of Rome is now less relevant in

actual economic sense?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Less relevant	

CNO

6. For your regions negotiators, how strong was the view that reciprocal EPAs were the best option in resolving EU-ACP Cotonou Agreements WTO inconsistency?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Very strongly	

7. To what extent were you of the view that a reciprocal EPA between EU and your region/state would generally promote exports, export diversification and competition for your state/region better than the preferential Cotonou Agreement?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Strongly	

8. After 2007, how important was an expeditious conclusion to the EPA negotiation (i.e as matter of time how important was legal compliancy with WTO) to your region?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Very important	

9. To what extent were your region's negotiators of the view that EPAs would be economically detrimental to your state/region's economic competitiveness in the long term?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Very much	

10. To what extent were your negotiators of the view that to accomplish the 'development' dimension, the EU ought to compensate ACP states for fiscal losses due to EPA liberalization?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Very much	

NOI

11. To what extent were your negotiating preferences driven by a desire to diminish your region/state's dependency on unilateral EU-ACP preferential market access regimes (GSP or EBA)?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Very much	

12. To what extent do you feel that EU negotiating positions and attitude during EPA negotiations were informed (or constrained) by historical roles and expectations brought over from previous EU-ACP negotiations (Yaoundé, Lome, Cotonou)?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Strongly	

13. As an ACP negotiator did you feel that the EU's negotiating positions/offers on the FTA aspects of the EPAs (eg. in trade liberalization duration, volume of liberalization, negotiating timeframe, RoO, etc) were more generous than for other recent EU's FTAs with developing countries?

1	2	3	4	5	6	7	NA
Not at all			Moderately			More generous	

14. If so on question 13, (4 - 7) do you feel that such generosity was informed by a strong sense of EU's

special historical responsibility for ACP states' development and good economic performance in their quest to integrate into the global trading system?

1 2 3 4 5 6 7 NA

Not at
all

Moderately

Strongly
so

15. How much was your desire for extension of negotiation deadline from (2007 to 2014...and possibly beyond) informed by a motive to have mutually acceptable EPA agreements through consensus, even if it took more time beyond the initial WTO imposed deadline to do so, rather than agreements (GSP or EPAs) largely dictated by time constraints?

1 2 3 4 5 6 7 NA

Not at
all

Moderately

strongly

16. In your experience, to what extent was speed of negotiations held back by EU or your region's negotiators sensitivity to breaking-up, or perceptions of breaking-up of regional coherence in your region?

1 2 3 4 5 6 7 NA

Not at
all

Moderately

Perfectly

17. In your experience, to what extent was EU willingness to extend the negotiating period beyond the WTO mandated 2007 deadline, informed by EU negotiators sensitivity not to undermine (or avoid accusations of antagonizing) the stability of EU- ACP relations/partnership?

1 2 3 4 5 6 7 NA

Not at
all

Moderately

Strongly

18. To what extent do you feel that aspects of EU-ACP historical, formalized (Yaoundé, Lome, Cotonou) and preferential economic relations were an asset in fomenting a cooperative spirit during the EPA negotiations process?

1 2 3 4 5 6 7 NA

Not at
all

Moderately

19. How influential was the idea of maintaining EU-ACP 'special relations' important in informing your negotiating objectives, preferences and attitudes?

1 2 3 4 5 6 7 NA

Not at
all

Moderately

Strongly

20. Were you surprised by the EU's interest in and expenditure of €20 million in capacity building in support of ACP states' negotiating capacity for EPA negotiations?

1 2 3 4 5 6 7 NA

Not at
all

Moderately

Strongly

The Subjective Value Inventory for the EU

IN EU-ACP ECONOMIC PARTNERSHIP AGREEMENTS NEGOTIATION 2002-2014

On the request of Elijah N. Munyi,

PhD Fellow Aalborg University, Denmark.

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General Instructions: For each question, please circle a number from 1-7 that most accurately reflects your opinion. You will notice that some of the questions are similar to one another; this is primarily to ensure the validity and reliability of the questionnaire. Please simply answer each question independently, without reference to any of the other questions.

Important: If you encounter a particular question that is not applicable to your negotiation, simply circle "NA." Even if you have not reached a definitive final agreement, please try to answer as many questions as possible. In your answers use the most up-to-date form of the EPA agreement that has been mutually agreed between yourself and respective ACP region or state

NOI

1. To what extent were the EU's negotiating objectives driven by a motive to diminish ACP dependency on unilateral EU-ACP preferential market access regimes (GSP or EBA)?

1	2	3	4	5	6	7	NA
---	---	---	---	---	---	---	----

Not at all Moderately Strongly

2. To what extent do you feel that ACP negotiating preferences and attitudes during EPA negotiations were informed by historical roles and expectations brought over from previous EU-ACP negotiations (Yaoundé, Lome, Cotonou)?

1	2	3	4	5	6	7	NA
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Not at all Moderately Strongly

3. As an EU negotiator did you feel that the EU's negotiating positions/offers on the FTA aspects of the EPAs (eg. in trade liberalization duration, volume of liberalization, negotiating timeframe, RoO, etc) were more generous than for other recent EU's FTAs with developing countries?

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466
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Not at Moderately More
all generous

4. If so on question 13, (4 - 7) was such generosity informed by the ACP-EU special relations and the EU's sense of special responsibility for ACP states' development and good economic performance as these states (ACP) integrate into the global trading system?

1	2	3	4	5	6	7	NA
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Not at all Moderately Strongly

so

5. How much was the extension of negotiation deadline from (2007 to 2014) informed by an EU motive to have mutually acceptable EPA agreements through consensus, even if it took more time beyond the initial WTO imposed deadline to do so, rather than have agreements (GSP or EPAs) largely dictated by time constraints?

1 2 3 4 5 6 7 NA

Not at Moderately strongly
all

6. In your experience, to what extent was speed of negotiations held back by EU negotiators sensitivity to breaking-up, or perceptions of breaking-up of regional ACP regions coherence, or outright lack of coherence among ACP regions?

1 2 3 4 5 6 7 NA

Not at Moderately Seriously
all

7. In your experience, to what extent was willingness to extend the negotiating period beyond 2007 informed by EU negotiators sensitivity not to undermine (or avoid accusations of antagonizing) the stability of EU- ACP relations/partnership?

1 2 3 4 5 6 7 NA

Not at Moderately Strongly
all

8. To what extent do you feel that aspects of EU-ACP historical, formalized (Yaoundé, Lome, Cotonou) and preferential economic relations were an asset in fomenting a cooperative spirit between the EU and ACP regions during the EPA negotiations process?

1 2 3 4 5 6 7 NA

Not at Moderately strongly
all

9. How influential was the idea of maintaining EU-ACP 'special relations' important in informing your negotiating objectives and preferences?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Strongly	

ON VALIDITY AND CODING OF THE SVI

It should be made clear from the very start that while I highlight some questions in this short section, all the questions in each respective domain are used in calculating the ACP or EU normative or institutional convergence or entrapment. The highlight is given as an exercise in establishment of validity in the connection between the questions asked, and the variables that the questions seek to probe. The ACP SVI is divided into three sections. Section IO (questions 1-5) seeks to evaluate the feelings on negotiator satisfaction (or dissatisfaction) from the instrumental outcomes – hence the code of IO. While we have five questions in the section the two key questions which precisely are set to measure satisfaction are questions 1 and 2:

How satisfied are you with the current EPA outcomes—i.e., the extent to which current state of the agreements reflects your original EPA objectives?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Very satisfied	

As negotiators to what extent do you feel that the EPA current outcomes broadly reflect the wishes of (and are thus acceptable to) your most dominant domestic constituency (politicians and business)?

1	2	3	4	5	6	7	NA
---	---	---	---	---	---	---	----

Not at
all

Moderately

Strongly
acceptable

Section two the ACP SVI is titled CNO and it comprises questions 6-10. CNO stands for Convergence on Negotiation Objectives and these questions set out to assess ACP negotiators levels of persuasion on the putative benefits and objectives of EPAs as framed by the EU during the negotiation. The EU negotiating mandate frames³⁵ the EPAs as being tools of enhancing economic development and competitiveness. As section 2.2 of the 2002 mandate outlines, EPAs were established for the purpose of enlarging ACP markets, increasing trade flows and competitiveness and thus aiding in economic development. The EPAs were framed as developmental FTAs that would enhance export diversification and general economic competitiveness of the ACP states. How persuasive was this framing on the objectives of EPA for the ACP negotiators? To what extent were ACP negotiators of this EU mindset on the objectives of EPAs? The three most important questions here are 7, 9 and 10.

To what extent were you of the view that a reciprocal EPA between EU and your region/state would generally promote exports, export diversification and competition for your state/region better than the preferential Cotonou Agreement?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Strongly	

³⁵ EU negotiating mandate 2002, section 2.2

To what extent were your region's negotiators of the view that EPAs would be economically detrimental to your state/region's economic competitiveness in the long term?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Very much	

To what extent were your negotiators of the view that to accomplish the 'development' dimension, the EU ought to compensate ACP states for fiscal losses due to EPA liberalization?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Very much	

Questions 7 and 9 test the negotiator persuasion on the supposed putative benefits of an EPA. Question 10 crucially, tests the ACP states view on the role of asymmetry. The greater the feeling amongst an ACP state's negotiators that the EU ought to compensate them for their liberalization losses, the greater we can deduce a clientlist attitude fuelled by a higher degree of asymmetrical expectation and relational exchange. Those states which do not seek or expect compensation show a higher propensity for more 'equal' relations where the exchange is more purely commercial than relational. Such states – we would aver- would be more likely to accept an EPA faster even if the EU doesn't give material incentives to catalyze their acceptance.

The third category of questions in the ACP SVI (11-20) is under the code NOI which stands for Normative Institutionalism. Questions 11-19 in the ACP SVI are same questions as the EU's

SVI question 1-9. Question 20 in the ACP questionnaire was not deemed pertinent on the EU's side and was thus left out. Hence unlike the ACP's SVI which is longer and which is used to examine satisfaction and belief convergence in addition to institutional constraints, the EU SVI evaluates EU negotiators only on feelings of institutional constraints. This is because EU lead negotiators imposed stringent demands on a scaled-down, shorter SVI and thus I sought to measure only those aspects of the EU position that could not be gleaned from other sources of literature. In both cases (EU and ACP questionnaires) the questions under NOI are designed to evaluate negotiator feelings about the role of institutions and EU-ACP historical relations in constraining the behavior and preferences and consequently outcomes of the EPA negotiations. How intensely do the norms of EU-ACP historical institutions and relations affect the conduct and outcomes of the EPA negotiations? These norms include:

A norm of consensus in negotiation (question 15 and 17)

How much was the extension of negotiation deadline from (2007 to 2014) informed by an EU motive to have mutually acceptable EPA agreements through consensus, even if it took more time beyond the initial WTO imposed deadline to do so, rather than have agreements (GSP or EPAs) largely dictated by time constraints?

1	2	3	4	5	6	7	NA
Not at all			Moderately			strongly	

In your experience, to what extent was EU willingness to extend the negotiating period beyond the WTO mandated 2007 deadline, informed by EU negotiators sensitivity not to undermine (or avoid accusations of antagonizing) the stability of EU- ACP relations/partnership?

1	2	3	4	5	6	7	NA
---	---	---	---	---	---	---	----

Not at all				Moderately				Strongly
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Norms of fostering regional integration (questions 16)

In your experience, to what extent was speed of negotiations held back by EU or your region's negotiators sensitivity to breaking-up, or perceptions of breaking-up of regional coherence in your region?

1	2	3	4	5	6	7	NA
Not at all				Moderately			Perfectly

Norms of 'special responsibility' and 'special' allegiance

As an ACP negotiator did you feel that the EU's negotiating positions/offers on the FTA aspects of the EPAs (eg. in trade liberalization duration, volume of liberalization, negotiating timeframe, RoO, etc) were more generous than for other recent EU's FTAs with developing countries?

1	2	3	4	5	6	7	NA
Not at all				Moderately			More generous

If so on question 13, (4 - 7) (above) do you feel that such generosity was informed by a strong sense of EU's special historical responsibility for ACP states' development and good economic performance in their quest to integrate into the global trading system?

1	2	3	4	5	6	7	NA
Not at				Moderately			Strongly

all

so

How influential was the idea of maintaining EU-ACP ‘special relations’ important in informing your negotiating objectives, preferences and attitudes?

1	2	3	4	5	6	7	NA
Not at			Moderately			Strongly	
all							

Were you surprised by the EU’s interest in and expenditure of €20 million in capacity building in support of ACP states’ negotiating capacity for EPA negotiations?

1	2	3	4	5	6	7	NA
Not at			Moderately			Strongly	
all							

Having explained the coding of the SVI questionnaire as was used in the survey, the next few paragraphs briefly expound on the linkage between the survey questions and the research question and the preliminary research suppositions.

On Satisfaction: Satisfaction as affect, conditional on belief

Questions 1-5 of the ACP SVI sought to measure the general satisfaction of ACP negotiators with the process and outcomes of EPA. The responses on these questions can tell us at the least who is most (or least satisfied) with the process and outcomes. However based on the working outcomes and assertions of this work from section 4.2 that there are no significant differences in the distribution characteristics of the ACP states’ outcomes, based on the responses issued

here we are forced to ask the question of why are some ACP regions or states are (or feel) more satisfied than others? Why do those who feel satisfied feel so? The question of satisfaction is one seen as an incidental corollary affirmation to the idea of belief convergence and efficiency in EPA ratification. The hypothesis would be that those states that had greater belief convergence with the EU were more likely to express satisfaction. Being incidental to the primary tasks of this work it is not deeply pursued beyond the answers provided in the SVI.

On Credibility of Negotiation Objectives (belief convergence)

This is absolutely key. This attributes seek to test the relationship between belief convergence and efficiency in conclusion of negotiation. The hypothesis is that the greater the belief convergence between the EU and a respective ACP dyad, the greater the propensity to ratify by that ACP region and vice versa. As part of the analysis Question 9 and 10 are isolated as the most relevant to testing the belief convergence between the two parties as they relate to precisely the two key issues in the EPA negotiations: EPAs as instruments to spur economic competitiveness and an ACP state's perception on EPAs as either strengthening or weakening EU-ACP asymmetrical relations. Question 9 deals with the purported economic objective (utility) of EPAs. Question 10 deals with the development aspect of EPA and what it was perceived to entail since EPA were framed as supposed to be developmental in some way (asymmetry). In my interpretation, this being a Free Trade Agreement where the objective is inevitably some degree of trade liberalization by both parties, an expectation of financial compensation by one party to the other on the basis of the latter's loss due to liberation is an indication asymmetrical expectation. Thus by evaluating the degree of expectation of financial compensation on the ACP states, we can tell their disposition towards asymmetry.

On Normative Institutionalism: EU-ACP negotiations as 'Special'

This section of questions examines the negotiator feelings on how they are constrained by the historical EU-ACP institutions. If the negotiators show a high level of having felt constrained (in behavior, preferences and predisposition) then we can deduce the role of the EU-ACP special relations as it impacts the negotiation. Rather than the intra-ACP regions/states variances, the questions in this section are primarily designed to evaluate why negotiations in the super dyad (EU-ACP wide) have been very slow and protracted. In essence why has the EU had to put up with the protraction even though it could simply have relegated all non-ratifying ACP states into the GSP in 2008?

Key Negotiators and the Process of Soliciting for Negotiator Responses

One of the key consideration and element in the survey interviews was the problem of identifying who the key negotiators for each ACP state were. While the key Cariforum and EU negotiators were easy to identify (from the EU's Directorate of Trade rooster on management of bilateral Trade relations)³⁶ key negotiators from the ACP are not overtly apparent. The approach in identifying these individuals was therefore guided by the references I was given by each of these states (or regional secretariat) personnel from the Ministries of Trade, Foreign Affairs or these states Brussels Embassy offices. In the case of all SADC responses the

³⁶ The Cariforum College of Negotiators was a clearly constituted and publically known group of supranational negotiators from the cariforum states. See http://www.crnw.org/index.php?option=com_content&view=article&id=49&Itemid=99&0872a8d70c6252b77261d45b4779477d=9e61c804b7002b34ec4611dbfe6d2dd2

Those from the EU could be identified from here. See http://trade.ec.europa.eu/doclib/docs/2009/august/tradoc_144247.pdf

respondents were met face-to-face at a negotiation round in Brussels in May 2013. In this case, (as in others) the responses would often be done by the team of three or four negotiators. In cases where more than one response was availed (such as from the Cariforum group or the EU), the position of the lead negotiator would be considered in the analysis.

3.2.2.5 *Data Analysis: Analytic Induction*

Using the data derived from the qualitative data set, use analytic induction to determine the factors that seem to have played the most prominent role in determining the nature of concessions, efficiency and wins. The hypothesis here twofold: Efficiency (in terms of how fast the ACP regions accepted and subsequently ratified an EPA) could be attributed to several variables which are all evaluated in SVI questionnaires using a set of four main categories of normative persuasion. These are: (i) a state's degree of normative persuasion on utility of EPAs, (ii) a state's normative persuasion (compliance vs. internalization) of EPA ratification, (iii) a state's feelings of fairness in process and satisfaction with outcomes and (iv) a state's degree of asymmetrical expectation from the EU. Is there a relationship between the efficiency (EPA ratification) and each of these attributes? How does each of these attributes affect a state's propensity to ratify an EPA?

The focus of Analytic Induction is the exploration and unveiling of regularities in the social world. As Keith Punch asserts in quoting Kelle, this method of data analysis involves a 'series of inductive and deductive steps whereby data driven inductive hypothesis generation is followed by deductive hypothesis examination of the purpose of verification' (Punch, 2005: 196). As explained by both W.S. Robinson (in Bryman and Burgess, 1999) and Punch (2005) Analytic induction fits very well with the process and purposes of this work which is finding a regularity that fittingly explains the propensity of ACP states to accept a free trade agreement with the EU. As Punch details the process follows four key steps:

- A definition of the phenomenon to be explained- (EU-ACP EPA outcomes).
- Some cases of this phenomenon are examined and potential explanatory features identified- (variance among the 33 initialing states).
- A hypothetical explanation is framed on the basis of analysis of data designed to identify common factors across the cases.
- Further cases are investigated to test the hypothesis and this leads to a process of testing and reformulation of hypothesis until validity of hypothesis is affirmed among all cases.

(Punch, 2005: 197)

4 THE EMPIRICAL CHAPTER

4.1 *Introduction*

The two sub-questions in this dissertation are what explains the variances within ACP regions in their propensity to sign an EPA agreement? And two, what explains ACP's inordinate ability to defend against the EU in this 12-year negotiation in spite of the patent material asymmetry between the two parties? Both questions deal with the element of efficiency in negotiation analysis, (as opposed to the question of distribution characteristics). They are thus sub-questions to the principal question. Negotiation efficiency refers to the time taken for completion of the negotiation.

In order to deal with the question of efficiency persuasively, the initial sections of the empirical section are used to demonstrate the minimal variances in the distribution characteristics of EU-ACP dyads. These variances (in distribution characteristics- how the pie is shared) being found to be minimal, then establish a sound foundation for examination of efficiency as the more compelling element of variance in outcomes and hence this dissertation's main focus. Thus section 4.2 is actually used to deal with the distribution characteristics of the various ACP-EU dyads. The idea behind this section is the argument that with regard to the most contentious issues of the EPA negotiations, we actually do not have major variances in distribution outcomes among the various ACP regions or states. Thus although there are patent economic variations in different ACP regions/states (in terms of economy size, GDP per capita, export diversification, and experience in trade negotiations, etc.) all these factors do not seem to produce any substantive differences in how well ACP states defend or successfully claim from the EU. As section 4.2 shows, the pattern of distribution outcomes of EPAs across the ACP regions and states is quite standard. The uniformity of results from distribution outcomes for all ACP regions therefore suggests that the EU inordinately influenced these patterns and thus most ACP states simply carved to the EU preferences. One caveat on this uniformity is the case

of the Cariforum region which from a purely distributional point of view (in other words without considering the foundations of its preferences) seems to have ‘lost’ comparatively more aspects of policy space than the African or Pacific regions. This is an interesting ‘loss’ for the Cariforum and one which merits our interest. Does this loss mean ‘loss’ mean negotiation ineptitude on the part of the Cariforum negotiators, or does it suggest a greater (than the African and Pacific states) normative agreement with the objectives of perceived policy space loss? In addition, if the distribution outcomes of different ACP states and regions are indeed more or less uniform (as we show) then this will equally suggest the irrelevance of coalitions in the negotiations. If the outcomes among ACP regions with different clusters end up being uniform, then it suggests that the composition of the clusters was irrelevant to the outcome. This is partly why the coalition’s hypothesis is not seriously pursued at an empirical level. At any rate section 4.2 is intended to showcase the final EPA distribution outcomes based on each parties initial preferences, and eventually show the widespread uniformity in these outcomes across the initialing (or ratifying) ACP states.

Having established the relative uniformity in distribution outcomes from section 4.2, section 4.3 then delves into the two deductive theoretical foundations of the research question. How compelling is material dependency (trade) a factor in explaining variances in efficiency? Is trade dependence the most compelling factor that explains why some regions conceded or failed to concede to the EU’s objectives? Is the role of belief and norm convergence discounted as a variable in explaining how fast a negotiating dyad reaches its agreement? The objective of the empirical chapter is to present empirical data from the EU-ACP Economic Partnership Agreements negotiations which begin the process of answering the research question. The first section of the empirical section broaches on a description of these variances. Based on the empirical outlay presented here further theoretical inferences will be drawn in subsequent analysis chapters. A key aspect of section 4.3 is to show that contrary to theoretical suppositions about the primacy of trade dependence in compelling an agreement, this supposition does not appear to be affirmed in the EU-ACP EPAs. Norm convergence (or

ideational liberalism), a variable arrived at after initial elite interviews with ACP and EU negotiators seems to be a more cogent explanatory variable for inter-state cooperation in asymmetrical negotiations. To present my arguments the empirical chapter will be geared towards an empirical demonstration of three key negotiational outcomes of ACP- EU EPA.

- i. One, to show that the EU 'wins' on key contested (distributional) issues of the negotiation. By mapping out the zone of agreement on key negotiated issues, data on EPA outcomes at 2007 initialing stage show that final distributional agreements are closer to the EU's original objectives than they are to the ACP regions' (and states) initial preferences. 'Negotiation success' is based on a clear definition of success or loss as the divergence between pre-negotiational objectives and the final agreements. However, even though the EPA initialing of 2007 shows a vindication of the trade dependence hypothesis, this win is only temporarily since many of the initialing states withhold ratification by up to six years. Hence this trade dependence supposition doesn't explain what happens after 2007 with regard to the propensity with which various ACP groups have ratified the EPAs. This is done in section 4.2 while 4.3 tests the deductive suppositions raised by trade dependence thesis.
- ii. Two, to show that there are intra-ACP variations in outcomes which range from full acceptance of comprehensive EPA to no EPA at all. These differences in fact constitute the main intra-ACP states differences with regard to this negotiations. As shown in section (a) most of the ACP regions agree to the EU's objectives. But while some only seem to comply, others are veritably 'converted'. What explains variances in efficiency (time) of EU-ACP Economic Partnership Agreements? The empirical evidence from interviews and surveys done show that these differences can be explained by the degree of state (or region's) belief in the merits of EU objectives in spurring economic development as well as their view of EU-ACP asymmetry. This are arguments based on the empirical findings of elite interviews (section 4.4) and the SVI questionnaires responses (section 4.5) issued to negotiators of all initialing states.

- iii. Three, to show that the ACP has a unique associative resistance power to the EU offensive. One, many of the ACP states successfully³⁷ defend against a quick capitulation to accepting an EPA. These states delay ratification (legality and application) of agreements reached in 2007 (in spite of initialing). Consequently in spite of having the 'interim' agreements initialed, the EU has been forced to keep the preferential provisions of Cotonou beyond 2007 (possibly up to 2016) for at least 21 of the 36 states that initialed an agreement in 2007. Two, that the ACP states have been successful in pushing for a re-negotiation of some of the agreements reached in 2007. A big compromise for the EU in this regard has been to accept the goods only FTA contrary to their initial ambition of a comprehensive (goods and services) FTA. How is it that the EU has been pushed to agree a renegotiation by these ACP states which are putatively weaker and more materially dependent on the EU? This is done in section 4.6.

4.2 *Mapping the Negotiation Zone: The Dependent Variable and Defining Success*

The variable of interest and the one whose explanation the study seeks is the EPA outcomes. Negotiated outcomes can be explained in terms of either distributional characteristics (who gets what, of the shared pie) or in terms of efficiency (how fast and Pareto optimal are the outcomes reached? This section deals with the distributional characteristics. To define gains and losses and delimit the definitions of measuring negotiation success for both parties (the

³⁷ I argue that these states are successful because they regard the delay as a success which, as long as they can withhold the operationalization of the FTA, without leading to a breakdown of the negotiation, means that they can still maintain their preferential exports to the EU, while still applying tariffs to EU imports into their territories.

EU and the ACP) the study examines agreements on eight of what have been referred to as the most contentious issues of the EPA negotiation. Negotiating 'success' or 'loss' is measured by a comparison of the final agreements to the states' original (pre negotiation) objectives. Negotiation success or loss can also be assessed by comparing the degrees of relative concessions. 'Who concedes more on each issue and on the overall negotiation? Simply put, negotiating loss or success in this work follows an Odellian definition of '...a government's own objectives and relative to what would have happened if it had simply accepted other's decisions' (Odell, 2010: 545). It is equally important to note that negotiation success or loss does not refer to the actual impacts, positive or adverse, that the negotiated outcomes procure. This section therefore will present the selected contentious issues, the agreements reached on them, and juxtapose those final agreements with the regions' (or states') pre-negotiational objectives to show the direction and extent of concessions by each party.

The main outcomes are predicated on selected 8 objectives which constituted what have been referred to as the most contentious issues of the negotiation. These contentious issues are therefore deemed as representing the core aspects of contestation and which defined what was at stake for both parties. The selection of these outcome variables is based not only on the stated pre-negotiation objectives of both parties' negotiation mandates, but also on other elements of objectives introduced during the negotiating process. This is outlined in numerous publications that have identified what have emerged as the most contentious issues in the negotiation (South Centre, Analytical note SC/TDP/AN, 2013, Bilal and Lui, 2009; OPPD and the EU Parliament, 2011; Bilal and Ramdoo, 2010; South Centre, 2010; Sindzingre, 2011; Bilal, 2002; Bilal and Stevens, 2009;). Together with other official EU and ACP documents such as the EU and ACP negotiating mandates, these publications comprise the major source of my data.

Both the EU and ACP negotiating mandates outline, albeit fuzzily what each party considered to be the main objectives of EPA. As with any Free Trade Agreement the ends of what the

agreements ought to have achieved were agreeable. But contentions soon arose as to how these ends were to be achieved. These broad objectives from both parties negotiating mandates are briefly outlined here. Further, the specific contentious issues are then outlined and thinned into the eight core issues of contention.

In order to introduce these contested issues, the following section briefly introduces the ACP and EU's EPA objectives and common principles as were conceived by their negotiating mandates prior to start of the negotiations in 2002. Both the EU's negotiating mandate [Commission of the European Communities. (2002) '*Council Decision Authorising the Commission to Negotiate Economic Partnership Agreements with the ACP countries and regions*'] and the ACP's negotiating mandate [ACP. (2002) '*ACP Guidelines for the Negotiations of Economic Partnership Agreements*'] were in agreement on a number of broad objectives for EPAs as outlined below:

a) WTO compatibility

Both parties' mandates were keenly aware of the WTO litigation that had caused the EU to consider ending preferential treatment of ACP imports into the EU. The achievement of Free Trade Agreement was thus a shared objective. As the EU's mandate stated, 'EPAs must be compatible with provisions of the WTO...liberalization of trade in goods must therefore be undertaken, in particular, in conformity with the provisions of Article XXIV of the GATT 1994...' (Commission of European Communities, 2002: 5) Similarly, the ACP mandate, in its very first paragraph agreed with the 2000 *Cotonou Agreement* provision that the EU and ACP states should reach "new World Trade Organisation (WTO) compatible trading arrangements, removing progressively barriers to trade between them and enhancing cooperation in all areas relevant to trade" (ACP, 2002: 1). As in any other FTA, the actualization of WTO compatibility requirements was actualised by negotiations on the degree of trade liberalization (Substantially all Trade within a reasonable period) that each party would undertake to achieve WTO legality. While contentious, agreement has been settled based on the EU's benchmark of a minimum 80% trade liberalisation within 15 year period.

b) EPAs as generators for economic development

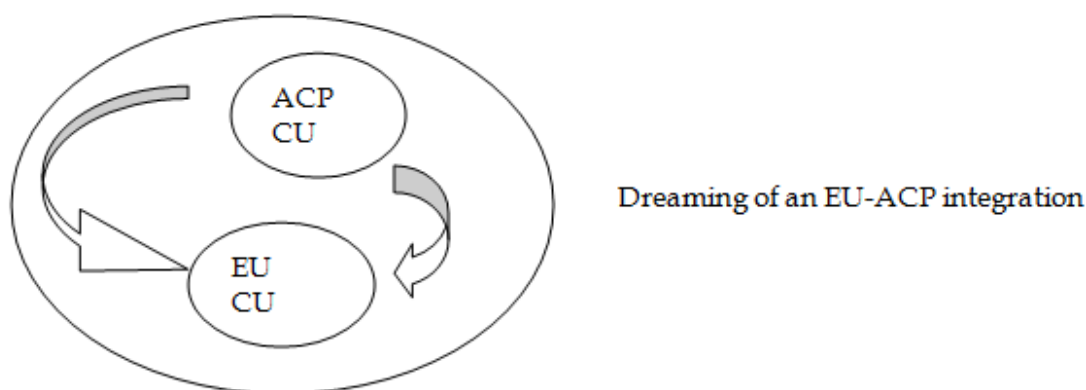
Apart from safeguarding ACP-EU trade treaties through WTO compliance, both the EU and the ACP group regarded EPAs as very deliberately aimed at resolving some of the developmental and export deficiencies that ACP states were experiencing. For the EU particularly, having assessed the effect of its asymmetrical preferential trading treaties to the ACP as dismal in precipitating 'a competitive private sector, the growth of investment or diversification of production' (Commission of European Communities, 1996: xiii), the EPAs were seen as an opportunity to correct for this dismal performance of ACP states in export expansion. The EPAs were thus intentioned to stimulate growth of ACP states by among other things encouraging further openness and competition among ACP member states and introducing reciprocity in trade. As the EU mandate very strongly puts it, the 'Partnership established by the Cotonou Agreement is "centred on the objective of reducing and eventually eradicating poverty, consistent with sustainable development and the gradual integration of ACP countries into the world economy". EPAs must serve this objective. They are therefore above all an **instrument for development**'³⁸ (Commission of European Communities, 2002: 3). The ACP is similarly ardent in placing the developmental aspect of EPA at the core of the negotiation. Their mandate emphasizes that since many of EPA states were Least Developed states (LDCs) as of 2002, and that many people in these states lived below the poverty lines, 'development' as an EPA objective had to 'be at the core of EPA negotiations' (ACP, 2002: 5). For both parties the centrality of development as an objective was never in question. However, the definition and actualization of what entailed the development components of the EPA has been one of the most, if not the most contested issue of the negotiation. While the ACP group

³⁸ The EU mandate itself emphasizes this dimension.

had a concrete vision of development as meaning monetary compensation for liberalization costs, in consistence with previous EU-ACP negotiation rounds, the EU regarded the development concept as generally woven and embedded in the whole process of trade and services liberalization.

c) Regional Integration

Since the treaty of Rome, regionalisation and the encouragement of regionalization has been a keen objective of ACP-EU relations. Since 1957, the EU and ACP states have been perpetually lured by the prospect of having a Customs Union built on an agreement between a commercially integrated EU and an integrated ACP customs union.



As such, both parties' mandates underscore the need for the EPAs to help in consolidation of existing regional integration schemes among ACP states. As the ACP states expressed it, 'EPAs should therefore support the ACP regional integration processes/initiatives based on the principle of sequencing and not undermine them (ACP, 2002: 8). This is supported by the EU mandate which similarly expresses the importance of using EPAs to consolidate and deepening ongoing regional integration processes among ACP states. While the intention at the beginning of the negotiations was to have regionalised negotiations and agreements, the ACP states have become fragmented and the EU has had to reach final agreements with individual states such as in the case of Ghana, Ivory Coast and Cameroon. Some big ACP

negotiating groups such as the East and Southern Africa (ESA) and the South African Development Community (SADC) have also splintered into camps.

d) Differentiation (special and differential)

Right from the start of the negotiations, the ACP group also made it clear that it expected asymmetrical (more lenient) treatment in the balance of liberalisation with the EU. As their mandate observed, 'the provision of special and differential treatment to ACP States must be an essential consequence of the differentiation between the ACP and the EU based on equity and recognizing their different levels of development' (ACP, 2002: 7). Thus, although the ACP was agreeable to eventually having reciprocal trade with the EU, it was expected that the process of liberalization would be asymmetrical in favour of the ACP states. This was because, the ACP argued, it had different, and in effect more dire economic needs than the EU. Thus the EU was urged to exercise flexibility, which it accepted. For the EU though, differentiation meant not only variances in speed of liberalization but also variances in expectations between the treatment of LDCs and non-LDC among ACP states. As such the LDC states within the ACP had less urgency to join in the EPA agreements since their preferential export schemes to the EU were not under threat.

4.2.1 The Negotiation Zone: The Contentious Issues of the EU-ACP Negotiation

The negotiating success or concession in this negotiation is predicated on the balance of concession that each party makes to the other party's demands and aspirations. The issues described above simply set out the broad objectives of the EPA process. The determination of concessions is founded on agreements reached on a set of contentious issues. This section introduces, defines and describes the respective position in the select (most) contested issues. A number of these contentious issues (eight) are then selected and used to calibrate a zone of negotiation and possibility frontier around which the negotiated agreements fell.

The *South Centre* has documented³⁹ at least 20 issues which it characterizes as being deemed contentious. However, some of the issues listed by the South Centre's as contentious only affected one or other region but were not issues that were contested or controversial within the entire ACP. Since my study examines the intra-ACP divergences, it is therefore necessary to use issues that were roundly contentious among all the seven ACP negotiating groups. The study will therefore focus on a fewer number of contentious issues which were shared by all ACP regions as well as the EU. This particular smaller number of contentious issues have been most exactly articulated and broached on by the European Centre for development Policy Management (ECPDM). They include; negotiations on (i) liberalization volume, (ii) liberalization duration (these two comprise SAT), (iii) Development support and liberalization compensation, (iv) infant industry safeguards, (v) export taxes, (vi) Most Favored Nation clause (vii) EPA legality and negotiation time frame and (viii) EPA Comprehensivity (goods only or goods and services). These are the contentious issues used to map the negotiation zone and determine the nature of the wins and losses.

These factors together constitute the main aspects of the "cake" to be shared although this is not a definitive list.⁴⁰ The indicators comprise what were considered the most contentious aspects of the negotiation and in essence defined the 'pie' to be shared. By examining the outcomes in each of these objectives we can deduce the distribution characteristics of the outcomes. The indicators for success are based on three main considerations: First, (a) those

³⁹ South Centre, 2010 'EPA Contentious Issues Matrix: State of Play, Key Problems and Recommendations'

⁴⁰ The negotiation objectives included many other aspects not included in these indicators such as if commodity protocols would be maintained, the inclusion of bilateral safeguards, national treatment clauses in the EPAs, the establishment of a dispute settlement mechanism and agreements in services (mode 4).

indicators which were manifestly outlined in the pre-negotiation mandates for both the EU and the ACP⁴¹ and thus which show the regions' privileged preferences. The three factors which come out as pre-eminent in the objectives were WTO compliance (liberalization exclusion and duration), EPA compensation packages and comprehensive agreements beyond trade agreements. Secondly (b), the research examines factors which as much as possible featured in all the negotiations between the EU and the seven ACP negotiating groups and which constitute what have been regarded⁴² as the major contentious issues. This means that the factors examined have an abounding relevance for all the ACP regions. In addition, the contentious nature of all these preferences give us better chances of drawing comparison and examining how different ACP groups fared when pitted against the EU and how the EU fared when pitted against the different ACP groups. Some technical aspects of the negotiations, such as negotiations on sugar protocols or mode 4 services are left out because they had overwhelming exclusive importance only in particular regions. Third, (c) In order to have a suitably standardized comparison of the outcomes, the research sought indicators which would all fit into a continuous variable (quantitative measures) and a discrete variable measure (for the qualitative comparisons).

- (1) Substantially All Trade, and
- (2) Duration of Liberalization

Under Article XXIV of WTO law, a Free Trade Agreement, such as the EU and ACP states wanted to achieve, has to fulfill two basic requirements:

⁴¹ ACP Guidelines for the Negotiations of Economic Partnership Agreements. ACP/61/056/02. Brussels 5th July 2002

⁴² See Dan Lui and Sanoussi Bilal's 'Contentious issues in the interim EPAs.' ECPM Discussion paper no. 89, 2009. <http://dontradeourlivesaway.files.wordpress.com/2010/10/contentious-issues-epa-eu-doc.pdf>

- a) A free trade area (as defined in article XXIV, 8 (b) of GATT) is an association that eliminates barriers to imports from members on “substantially all” trade among them.
- b) An agreement leading to the establishment of a free trade area should be reached within “a reasonable period of time” (Jackson, Davey and Sykes, 2002: 453).

For the EU-ACP Free Trade Agreement to be compliant with WTO law, the contention in the negotiation therefore was over how much trade liberalization each party had to undertake for the EPA agreements to be accepted as WTO compliant. As Jackson, Davey and Sykes observe however, the questions of what ‘substantially all trade’ or ‘reasonable period’ concretely meant was never given a clear answer. Regarding the liberalization time frame, this grey zone has been interpreted by the WTO to mean the length of time allowed for liberalization for the FTA agreement to be complete should only exceed 10 years ‘only exceptional cases’ (Jackson, Davey and Sykes, 2002: 454). Yet what constituted an exceptional case was left to interpretation.

Table 8: Region’s Initial Positions and Final Agreements and Final Positions on SAT

REGIONS	Initial Proposals.		Final (I)EPA Outcomes		Comments
	Liberalization Volume	Liberalization Duration	L.V.	L.D.	
EU	80%	15 years			In all regions where SAT is
Central Africa Cameroon	60%	20	79%	15 years	
ESA	70%	20 years			

Zambia			80%	15 years	contested, final outcomes reflect the
Zimbabwe			80%	15 years	
West Africa	70%	25 years			EU's pre- negotiation thresholds of
Cote d'Ivoire			81%	13 years	
Ghana			80%	14 years	80% volume in 15 years.
SADC	Not opposed	-			
Botswana			86%		The EU has its way
Lesotho			86%	4 years	
Swaziland			86%		
Mozambique			81%	14 years	
EAC	Not opposed	-	82%	15 years	
CARIFORUM	Not opposed	-	82%	15	
Pacific	Not opposed	-			
PNG			88%	15 years	
Fiji			87%	15 years	

Sources: OPPD. (2011). Economic Partnership Agreements EU-ACP: Facts and Key issues. http://www.europarl.europa.eu/pdf/oppd/Page_1/EPAFacts&KeyIssuesFinal-EN.pdf

Bilal and Stevens. (2009). Interim Economic Agreements between the EU and African States. Contents, Challenges and Prospects. Bilal, Sanoussi., De Lombaerde, P., and Tussie, Diana. (2011) *Asymmetric Trade Negotiations*.

As table 8 above shows, throughout the negotiation, the EU set out clearly and firmly that in its view the least acceptable threshold of substantially all trade (SAT) would be 80% over a maximum period of 15 years (Lui and Bilal, 2009; Bilal and Ramdoo, 2010; Remco Vahl interview, 2012). The EU did not concede any ground on this position throughout the negotiations. On the ACP side, there was variation among ACP groups as to what each region or even individual states viewed as the fair and WTO acceptable level of liberalization. Some states, such as Mauritius, were even willing to liberalize greater volumes of trade, faster than

the EU requested of ACP states. The aspired pre-negotiation liberalization duration and volume for some ACP regions however, was below the EU target of 80% in 15 years as table 8 shows.

(3) Development Support and Liberalization Compensation

From the onset of these negotiations, the question of what entailed a developmental angle to the EPA free trade agreements was highly contested. While the ACP states saw trade liberalization as entailing a cost to their economies in tax revenue losses, the EU argued that trade liberalization was inherently developmental as it would automatically unleash economic competitiveness and export diversification. In addition, the EU argued that regionalized negotiations would automatically contribute to enhancing ACP intra- regional convergence and hence expand trade. Because of the anticipated tariff revenues losses from liberalization, the ACP states contention from the beginning was that the EU should compensate them for revenues lost due to liberalization. Under provisions for 'development cooperation', the ACP negotiating mandate indicated that since in many ACP states, ' import duties constituted an important part of government revenues, increased liberation of trade would imply loss of revenues'(ACP, 2002: 17). As such, the ACP states proposed several measures which would be used to defray the anticipated costs of adjustment. The core proposal on measures for addressing adjustment costs was that as part of EPA agreements, the EU ought to provide 'additional resources, over and above those available under the EDF'....and that these 'resources should be committed by the EU through a regular budgeting exercise rather than a voluntary basis as is the case currently under the EDF' (ACP, 2002: 18). For the ACP states therefore, the actualization of a developmental aspect in EPA was primarily achievable through a legal commitment by the EU to provide more funds to the ACP states over and above what was already being provided under the 9th and 10th European Development Fund (EDF). Some regions, such as East and Southern Africa (ESA), West Africa and East Africa Community (EAC) went further to compute and present so-called developmental matrixes

that indicated the resources needed for EPA liberalization support. The initial and final positions of both the ACP and EU on development are outlined in table 9 below.

Table 9: Initial Positions and Final Agreements on Development support and Liberalization Compensation

Initial ACP Position	Initial EU position	Final EPA Agreements
<p>EPAs liberalization would be a cost in loss of revenues. This loss should be compensated</p> <p>A demand for a legally binding compensatory mechanism to defray liberalization costs of EPAs</p> <p>A demand for additional funds over and above the existing EDF.</p> <p>That the funds be provided in a <u>legally obligatory manner</u>, unlike the voluntarily given EDF.</p>	<p>EPA liberalization would enhance development by creating stable, predictable ACP economies which would trigger more investment, greater intra-ACP trade, competitiveness and economies of scale.</p> <p>In order to defray economic and social costs of EPA liberalization, the EU would provide 'appropriate' support measures <u>within the EDF</u> for ACP</p> <p>Pushed further the EU commission claimed that it had no mandate to negotiate on development financing from member states.</p>	<p>No legally binding agreement on any additional funding for mitigating EPA liberalization in ACP states.</p> <p>EU member states however committed themselves (under no legal basis) to give extra funding bilaterally as part of aid for trade</p> <p>The EU agrees to annex the regions' development matrixes and make the 'best endeavor' to mobilize resources to support EPA related development projects and strategies.</p>

Sources: ACP negotiating mandate, EU negotiating mandate; Omulisa and Trade Negotiations Insight, 2006

As table 9 (above) shows, the ACP's understanding/expectation on development was direct financial compensation from the EU as a result of trade liberalization. Faced with a demand to compensate ACP states, the EU at first flatly declined the proposal and claimed that it could not even discuss the matter of compensation because based on three purported factors: One, the EU argued that development financing was a subject of negotiation under the Cotonou Agreements and was not to be re-negotiated under EPAs. Therefore the EU resisted the introduction of liberalization compensation. Two, the EU argued that the Cotonou Agreements had provided for the 10th EDF which had been substantially raised to 22.7 Euros. The EU EDF allocations had risen from € 13.5 billion in the period 2000 - 2007 to € 22.7 billion in the period 2008-2013. The EU was thus of the view that it had substantially increased funding to ACP states in the 10th EDF⁴³. Thirdly the EU negotiators claimed that they had no mandate from member states to negotiate any details of liberalization compensation. (see Trade Negotiations Insight: From Doha to Cotonou 2006).

Eventually, no additional funds over and above existing EDF funds – as the ACP wanted – were provided in the final EPA agreements. This represents a clear win for the EU and a loss for the ACP states. In a meandering approach the EU member states did however agree to provide extra funds bilaterally as part of Aid for Trade and that a substantial part of this bilateral assistance would go towards the EPAs negotiation process. In spite of this promise of increased funding, the EU remained noncommittal on EPA liberalization funding and the ACP goal of extracting a legally binding agreement on the EU providing additional resources over and above the EDF failed. Some regions (the EAC for instance) accepted the Aid for Trade

⁴³ For more on EDF see http://europa.eu/legislation_summaries/development/overseas_countries_territories/r12102_en.htm

approach and in return the EU agreed to annex these development matrix to the EPA agreement. Consequently the EAC drafted what it called an EPA Development Matrix which lists and prioritizes the projects and programs for funding under the EPA related funding. Similarly the West African region (ECOWAS) crafted a similar funding matrix known as PAPED (Economic Partnership Agreement Development Programme).

(4) Export Taxes

The total elimination or limitation of the period over which the ACP states could use export taxes was another hotly contested objective introduced by the EC. The contention over export taxes between the ACP and the EC was not only over if or not to allow their use but why the EC should seek to curtail the policy space of developing ACP states by seeking to limit their use of export taxes, a move that was seen as going beyond the exigency of WTO compatibility. The WTO makes no obligations on WTO member states against the use of export taxes or fees (Jackson, Davey and Sykes, 2002: 396) and therefore the ACP states argued that introduction of this quest to curtail use of export taxes by the EC represented violation of ACP states' policymaking, especially in areas where the policy could be used to encourage domestic value addition. (See Third World Network, 2007, 'ACP Ministers clarify their EPA principles and options' and CUTs International, 2009 'Export Taxes and EPAs; another Policy Tool under Threat from the EC?').

Since the mid-2000s, the EC has continually called for a complete ban on export taxes both at the multilateral (WTO) and bilateral levels.⁴⁴ The EC's broad policy objectives is its concern

⁴⁴ See Communications from the EC: "*Activity report on export taxes to the NGMA*" (JOB(05)/321, 08 December 2005), and "*Negotiating proposal on export taxes*" (TN/MA/W/11/Add.6, 27 April 2006).

that export taxes could be used by some states to stifle its access to what it considers important raw materials such as primary metals, energy resources, key agricultural raw materials and hides and skins. This policy and view was outlined by the EC in its 2006 trade policy publication, *Global Europe*⁴⁵. As the EC has argued, export taxes are not only trade distorting, but that they have not been conclusively proven as developmentally useful (Bilal and Ramdoo, 2010: 21). On export taxes, the EU was opposed⁴⁶ to the use of these taxes and would have preferred to have the ACP states cease their use. Taxing exports is a policy tool that can be used to discourage exports -as in when trying to ensure domestic sufficiency- or more importantly for developing countries, to limit export of raw materials and thus encourage domestic value addition. Table 9 below shows the various ACP regions and EU positions on extended use of export taxes and the final agreements reached.

⁴⁵ See EC SEC(1230)2006: Secretariat Staff Working Paper: Annex to the Communication: "Global Europe: Competing in the world: A Contribution to EU's growth and job strategy".

⁴⁶ See, Peter Mandelson Speech 'The Challenge of Raw Materials' <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/08/467&type=HTML>. In this Speech Mandelson points out the EU was opposed to any policy that distorted trade and prices of raw materials. As well as Dan Lui and Sanoussi Bilal, 'Contentious issues in the interim EPAs'. 2009. Pg 13

Table 10: Initial Positions and Final Agreements on Export Taxes

Region	Initial Position	Final position
EC	Eliminate Export taxes ⁴⁷	
SADC	<p>Temporary export duties can be introduced in case of:</p> <ul style="list-style-type: none"> - protection of infant industry - protection of environment - specific revenue needs - Severe food shortage or to ensure food security; - for industrial development needs 	<ul style="list-style-type: none"> - Carve out for existing export taxes - SADC states may introduce temporary export taxes on a limited number of products in exceptional circumstances such as revenue needs or industry protection. - Agreement subject to review in 3 years - Introduction of these taxes requires EC agreement
EAC	No specific proposal put forth, but expressed need for flexibility to allow use of ET in certain cases	<p># The EAC and EC agree that the EAC could use taxes on a limited number of products to</p> <p>Foster industrial development</p> <p>Maintain currency value stability</p> <p># EPA council must authorize the tax</p>
Ivory Coast & Ghana	No specific proposal put forth, but expressed need for flexibility to allow use of ET in certain cases	<p>-Agreement allows continuation of existing taxes but these taxes cannot be increased</p> <p>- Taxes can be introduced in case of specific revenue needs, protection of infant industry and protection of</p>

⁴⁷ From Dan Lui and San Bilal, *Contentious Issues in EPAs*. 2009: 13-14

		<p>environment</p> <p>- Any increase or new tax requires consultation with the EC</p>
Cameroon	No specific proposal put forth, but expressed need for flexibility to allow use of ET in certain cases	<p># Agreement allows continuation of existing taxes but those cannot be increased</p> <p># taxes can be introduced in case of public finance needs or to protect the environment</p> <p># the effectiveness of these taxes to be regularly evaluated by an EPA committee which includes EC officials</p>
ESA	Proposes agreement to maintain existing taxes and possibility to introduce new taxes in case of food security needs, public finance, value addition and environmental protection	<p># agreement settles on a list of products on which taxes can be used</p> <p>An EPA committee can request for review of this list of products.</p>
CARIFORUM	Only few states used export taxes	# Agreement abolishes use of ET in 3 years. No exceptions

Sources: Sanoussi Bilal and Isabelle Ramdoo, 2010- original positions Dan Lui and San Bilal, 2009 - final positions

The European Union argued that ‘in the context of the EPAs, elimination of export taxes and restrictions is necessary to meet the GATT article XXIV requirement for eliminating barriers on “substantially all trade”, which covers exports as well as import measures (Lui and Bilal, 2009:

13). For the EU, taxing raw materials is seen as inimical to easing importation of raw materials.⁴⁸

As table 9 shows, in their initial response to EU proposals the EAC, West Africa and Central Africa all asked for flexibility to allow their member states to have the possibility to apply export taxes. In their initial proposals ESA and SADC also asked that they not only maintain existing export taxes but also they outlined specific cases where export duties could be introduced. The final agreements reflect some sort of a middle way solution. The EU accepts a carve out for the existing export taxes for the SADC, Cameroon, Ghana and Cote d' Ivoire as long as these taxes were subject to no increase. Both the EAC and ESA also carve out the possibility to use export taxes for a small select list of products. And all regions except the CAariforum win a concession for the EC to allow introduction of export taxes in cases of serious public finance problems. In the case of the Cariforum states, they agree to completely phase out export taxes in three years. In an important coup for EC, even in cases where ACP states can introduce new export taxes, these states must consult with the EC and the EC should consent to the increase. The EU therefore assertively injected its influence in use of export taxes by ACP states. The fact that these states have to 'consult' the EU in a matter of national policy seems to be an unqualified success for the EU.

(5) The Most Favored Nation (EU quest for MFN)

⁴⁸ For a further discussion on this see Richard Wattt's 'Export Taxes and EPAs: Another Policy Tool Under Threat from the EU' 2009. CUTS-GRC

The concept of a Most Favored Nation is an important cornerstone of multilateral trade liberalization designed to prevent discrimination of some states products against others. It is in fact article one of the General Agreement on Trade and Tariffs (GATT). An MFN clause in a bilateral or multilateral trade agreement guarantees that any advantage granted in respect to a free trade agreement with any other third party must be equally extended to the contracting parties (equally) in the agreement. Although the use of MFN is mostly confined to a multilateral setting, the EU introduced this request during the EPAs and demanded that it be granted a bilateral MFN status by ACP states. A Most Favored Nation (MFN) clause would have required that subsequent to an EPA agreement, should any ACP EPA signatory state opt to give greater preferential treatment on trade matters to any 'major trading economy'⁴⁹ other than the EU, that advantage also had to be granted to the EU. The MFN principle would preclude the possibility that any other major trading state could get a more preferential treatment from the ACP states than the EU. It would essentially lock the EU and the ACP states into an indefinite most favored trading partners of each other. Table 11 outlines the initial vs. final positions for both parties on MFN.

Table 11: Initial Positions and Final Agreements on MFN

Region	Initial position	Final Agreement
EU	ACP should grant the EU MFN	

⁴⁹ A 'major trading economy' was defined as one whose share of world merchandise trade was more than 1%.

SADC	Proposes consultation before granting MFN	Automatic extension of MFN
EAC	Opposed to MFN in EPA negotiations	Automatic extension of MFN
Central Africa		Parties agree to extend MFN
West Africa	Opposed to MFN in EPA negotiations	Parties agree to Extend MFN
Cariforum	Opposed to granting MFN	Parties to consider if the EC can be denied the advantageous preferences
ESA	Open to an MFN that carves out all developing countries	Automatic extension of MFN

Sources: Dan Lui and San Bilal, 2009, ACP negotiating mandate

As table 11 shows, the final agreements show a suave reign of the EU in its objectives and a capitulation for the ACP states. In spite of their opposition, the EU does extract the right to have the MFN status from all EPA initialing states. Although some ACP states do carve out exceptions for regional trade agreements involving African states or other developing states, the overall thrust on the issue of MFN is that the EU wins since all ACP states would have opted not to grant the MFN status.

(6) Inclusion of the Non-Execution Clause

Non Execution clauses are agreements in the EC-ACP *Cotonou Agreement* (articles 11b, 96 and 97) which grant either party the unilateral authority to impose sanctions and suspend trade agreements in case of violation of human rights, democratic principles or the rule of law by the other party. The non-execution clause has mostly been a policy instrument of the European Union to punish any state in the ACP that the EU felt was violating human rights or democratic principles. This policy is however mostly invoked in cases where the EU regards the opposite partner as somewhat less democratic than the Union and in need of some

socialization into more democratic ways. As Roland Bartels has noted, the non-execution clause was first used as early as 1962, when the EU rebuffed Spain's application to enter the Union on the basis that a then non-democratic Spain could not be considered a European country' (Bartels, 2005: 9). The EU has since then invoked or tried to invoke such an argument (clause) in a few cases to curtail aid to states it deemed to be violating some human rights. The first such attempt was against Uganda in 1977, when the EU tried to cut Stabex funding for Uganda even though at that time the non-execution clause did not exist legally under the Lome agreement. Both parties having since legally consented to use of the non-execution clause in the subsequent *Cotonou Agreement*, the clause has been invoked twice, first in Zimbabwe in 2001, and later for Fiji, in 2007. In both cases, rather than suspending trade related obligations, only aid related obligations were suspended.

Right from the beginning the EU expressly called for the insertion of the political dimension of the EU-ACP relationship into the EPAs. This would essentially maintain the EU's power in influencing political developments in ACP states through use of its aid and trade preferences. As a foundation for EPA negotiations the EU negotiating mandate of 2002 stated that, 'the respect of human rights, democratic principles and rule of law constitute essential elements of the Partnership Agreement. Good governance constitutes a fundamental element of this agreement. EPAs need to be placed in this context' (Commission of European Communities, 2002:3). Part of the EU's motivation for placing what is clearly a 'political dimension' at the foundation of the EPAs is that while the EPA agreements would be perpetual (indefinite), the Cotonou Agreements (on which the current political influence is anchored) will expire in 2020 and thus the EU will no longer have the political influence offered by non-execution clauses in the CA.

During the negotiations, all ACP states and regions expressly rejected the inclusion of non-execution clause in the EPAs (Bilal and Ramdoo, 2009:29). The ACP states resolved that

although the EU could still apply sanctions under the clauses in the Cotonou Agreements, 'for avoidance of doubt articles 11b, 96 and 97 of the Cotonou Agreements will not apply to the EPAs' (Lui and Bilal, 2009: 32). The ACP states therefore are successful in fending off EU offensive claims on inclusion of non-execution clauses. The inclusion of the clause, would have been contradictory to WTO compliance since a unilateral suspension of one's trade obligations towards another party to protest violation of human rights or democratic principles would violate GATT Article XXIV. This realization, might partly explain the EU's retreat. Nonetheless, the ACP states have a win in avoiding its inclusion in the EPAs as this was contrary to the EU's initial preference.

(7) EPAs Negotiation Time Frame

The timeframe for the EPA negotiation has also been an issue of intense negotiation itself and one in which the ACP states have managed some significant triumph in pushing back. At the beginning of 2002, the negotiations were envisioned to end by December 2007 at which time the Cotonou trading treaties between the EU and the ACP under which non-reciprocal preferences in trade were provided expired. Following the establishment of the incompatibility of EU's preferences to the ACP with WTO requirements, and to guard against further legal challenge, the EU sought a waiver from the WTO for maintenance of the preferences to the ACP states until end of 2007. For granting this waiver, the EU 'had to compensate her trading partners that felt that their trading rights were being curtailed by the ACP-EU trading arrangement'⁵⁰. The longer the negotiation duration the more costly it was for the EU. And

⁵⁰ This is according to the EAC's Briefing of on EAC -EC EPA Negotiations, 2012

therefore according to the decision⁵¹ issued by the WTO based on the EU and ACP states' request the negotiations establishing the WTO compatible FTA should have been expected to be complete by December 2007. Since the Banana case that prompted the complaints that led to the challenge of EU preferential export tariffs for ACP states was actually targeted on the EU, it is instructive to observe that the EU was under more intense pressure (than the ACP) to rectify the WTO incompatibility in order to avoid more litigation from the aggrieved Latin American developing states.

At the time the EU trade commissioner, Peter Mandelson tried to frame the end of WTO waiver in 2007 as an irrevocable deadline. He claimed that if it was not met the EU would immediately revert to the *les préférentiel* GSP. As he put it, '...that deadline is imposed by the expiry of the legal protection at the WTO for our existing trade agreements which are based on preferential access and break WTO rules. If we don't have the new system in place we will have to fall back on alternative with less generous market access...So the importance of a new agreement by 2008 is not a threat – it's a reality'(Mandelson, 2006). This as we now know turned out not to be the case.

Table 12 below outlines the evolution of the EU concession on negotiating time frame and the attempts made by the EU to compel a deadline and the ACP's successful defense against this quest. The table shows the movement of both parties from a tentative completion date of December 2007, to a highly fractious deadline of October 2014 that was unilaterally imposed by the EU.

⁵¹ DOHA WTO MINISTERIAL: The ACP-EC Partnership Agreement. WT/MIN(01)/15
14 November 2001

Table 12: Time line of Negotiating Deadline

Deadline		Source	ACP position	EU position
1 st	31 st Dec. 2007	WTO Waiver on Cotonou Agreement	Agreed (Or resigned to it)	Agreed
2 nd	Jan 2014	Instituted by regulation 1528: EU's unilateral decision,	Disagreeable ⁵²	Agreed
3 rd	Jan 2016	Proposed by ACP and supported by EU parliament	ACP proposal	Disagreeable
4 th	October 2014	Enforced by EU council and Parliament	Disagreeable	Agreed

Source: WTO Doha Ministerial Conference. WT/MIN(01)/15 (2001) /EC Council Regulation 1528 (2007)/ ACP SC on extension of regulation 1528 (<http://www.acp.int/content/press-release-acp-secretary-general-reacts-european-parliament-vote-market-access-regulation>)

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2013-112>

ACP Group calls on EU Parliament to not vote specific market regulation which can be considered as a pressure against ACP countries

<http://www.acp.int/content/acp-group-calls-eu-parliament-not-vote-specific-market-regulation-which-can-be-considered-pr>

⁵² See resolution by ACP ministers on EPAs, 2010.

http://www.southcentre.org/index.php?option=com_content&view=article&id=1431%3Asb52&catid=144%3Asouth-bulletin-individual-articles&Itemid=287&lang=en

In the final months of 2007, upon the looming end of the WTO waiver period 35 ACP states initialed an EPA agreement. Initialing an EPA meant that they had accepted as accurate whatever texts and agreements that had been reached up to that point. Realizing the hasty nature of the agreements reached however, almost all the initialing states declined to sign or ratify the agreement. Signing or ratifying the EPAs at this point would have made them legally binding. And thus in spite of the EC triumph in somewhat attaining an ACP agreement conditioned on the fear brought by the 2007 deadline, this triumph was obscured by the refusal of many of the EPA initiallers to ratify the agreements. Faced with this mutiny and protraction, at the end of 2007, the EC came up with a unilateral measure [Market Access Regulation 1528/07] that would compel the ACP states to either ratify [thus operationalize] the interim EPAs or be automatically reverted to the EU's GSP system. Regulation 1528 was designed both as a stop-gap measure that would allow ACP states that had initialed an EPA but not ratified it to continue exporting goods to the EU under the Cotonou preference.

The regulation set a new negotiation deadline of January 2014. According to the regulation, those non-LDC states which would not have ratified their EPAs by then would be relegated into the GSP. After an intense lobbying of the EU parliament, the ACP states managed to persuade the EU parliament to recommend an extension of this date to 2016, thus possibly gaining more time to negotiate and renegotiate some of the issues which had already been agreed under interim EPAs. In a resolution on EPAs issued in 2010 by ACP ministers, the ministers urged the EU to maintain market access until the full EPAs had been agreed on and signed.

Whatever the outcome of the proposal to push market access under the CA (Cotonou Agreement) to 2016, already the ACP states have been big beneficiaries of the more than 10 year negotiation process. This is because all the EPA negotiating states (apart from South Africa and Cariforum) have continued to benefit from the more advantageous non-reciprocal

Cotonou agreements in spite of the expiry of the trading agreement in 2007. The ACP states therefore displayed some negotiation dexterity in agreeing to the interim EPAs yet delaying or refusing to ratify them. Conversely, it could be argued that the EU has displayed some puzzling patience and reluctance to simply downgrade the non-ratifying ACP states to GSP. For the purposes of this thesis, both puzzles are pertinent. What does it say about the negotiation when ACP states 'agree' (initial) to an EPA yet decline to sign and ratify the same? Second, why does the EU cautiously hold back from ending the negotiation by relegating non-ratifiers to a GSP status?

(8) Comprehensive EPAs

Comprehensivity meant that the EU wanted the EPAs, as much as possible to go beyond the basic requirement of basic of WTO compliancy, to entail other facets of trade openness such as liberalization in services, agreements in intellectual property rights, agreements on the appropriateness of use of export taxes or the opening up of national treatment (nondiscrimination) in investments. As the EU negotiating mandate observed,

'EPAs should not only extend to trade in goods but also trade in services. Indeed, the importance of trade in services in world trade is increasing and there are examples of sectors where ACP states have comparative advantage. Services are therefore a potential source of growth for the ACP...liberalization of services will act as a spur to domestic reform, encouraging more efficient, varied and competitive markets and so contribute to increasing ACP competitiveness' (Commission of European Communities, 2002:4).

The EU thus sought to include service liberalization in EPAs. While sounding cautiously open to negotiation on trade in services at the beginning of the negotiations in 2002, the ACP states later issued a statement (in 2010) where they expressed concern that service liberalization, like other contentious Singapore issues such as competition policy and government procurement, 'could restrict the ACP governments' scope and policy space to regulate investors in the public interest or to give domestic small and medium enterprises a boost' (South Centre, Resolution on EPAs by ACP Ministers, 2010). Thus in most cases, liberalization in services has been

lumped up together with Singapore issues and ACP states were opposed⁵³ to negotiation of 'WTO plus' issues.

Table 13 below summarizes the outcomes on the zone of agreement and from this we can deduce which party's' position the final agreements reflect –and hence the nature of wins and concessions. Section 4.2.2. gives an in depth inference on of the uniformity in distributional characteristics of EPAs.

Table 13: Summary on the EPAs Negotiation Zone of Agreement and Outcomes

Issue		Who wins	Comment (why)
1.	SAT	EU	<i>For all regions, the EU gets its pre-negotiation objective of at least 80% liberalization</i>
2.	Liberalization duration	EU	
3.	Liberalization compensation	EU	
4.	Export taxes	The EU	ACP states do not get any legally binding liberalization compensation 'over and above EDF' as aspired at the beginning of negotiation.

⁵³ For African ACP state opposition to Comprehensivity see, 'Trade: ACP Ministers clarify their EPA principles and options' <http://www.twinside.org.sg/title2/wto.info/twninfo110722.htm>

			<p># The EU gets the ACP states to concede negotiation on an area that is 'WTO plus' and thus need not have been in the EPAs.</p> <p># The EU gets to inject itself into the policy influence on use of export taxes by ACP states</p>
5.	MFN	EU	<p># The EU gets the ACP states to concede negotiation on an area that is 'WTO plus' and thus need not have been in the EPAs.</p> <p>#The EU succeeds in getting automatic MFN status against the ACP states wishes.</p>
6.	Comprehensivity (scope)	ACP	Apart for the Cariforum, other ACP regions resist push to include so called Singapore issues in EPAs and services in EPAs.
7.	Non-execution clause	ACP	ACP states succeed in fending off EU demands to insert political dimension into EPAs
8.	Negotiation time frame & legality [EFFICIENCY]	ACP	ACP states agree to the EPAs but succeed in delaying operationalization of EPAs thus prolonging the more advantageous Cotonou Agreement preferences beyond 2007

4.2.2 Summary on Distribution Characteristics: The Two Puzzles of Explaining Efficiency

As has been repeatedly emphasized so far, the main question of this dissertation is that of explaining variances in efficiency rather than in distribution characteristics. The purpose of section 4.2.1 above (which expends some considerable space to analyzing the distribution characteristics of EPA outcomes) is done with one objective in mind: To show the relative uniformity of the distribution characteristic outcomes for all the ACP regions. Looking at contested issues 1-5, in table 13 above the EPA outcomes clearly reflect (mostly) the original EU preferences. While the EU was accommodating on each of the regions' variances with regard to each of the contested issues, it remained resolute and successful in extracting its minimum threshold target in each contested issue. On the core Free Trade Area GATT requirement of liberalizing 'substantial' trade within a 'reasonable' period of time, the EU gets its 80:15 target for all ACP regions. This means that all ACP states would liberalize at least 80% of their trade within 15 years. On perhaps what is the most contested of issues- development and liberalization compensation- none of the ACP states manage to wring out any funds from the EU over and above existing EDF funding as the ACP negotiation mandate had set out. In three areas- granting EU an MFN Status, and limiting ACP states use of use of bilateral safeguards and export taxes, the EU is once more successful in not only injecting these non-essential 'WTO plus' issues into the negotiation, but also in limiting the ACP states use of these policy options through sunset clauses which allow the use of such policies tools for a limited number of years -usually not beyond 12 years. The intra-ACP variances in these three areas are immaterial as they represent EU flexibility once it's essential target of limiting the use of these policy tools has been met. These triumphs for the EU represents a clear foray into the policy space of ACP and a loss for the ACP states since they were opposed to inclusion of these issues into the negotiation. Even though issue (6) on *comprehensivity* is classified as a win for the ACP, it is the one single contested issue under scrutiny where there is a fundamental variance between the Cariforum and other ACP states. While the Cariforum states ratify a comprehensive EPA, other states agree to only an interim EPA. The classification of

comprehensivity as an ACP win is based on the fact that out of all the EPAs that have been concluded, ratified or/and reported to the WTO (EU-Cariforum states, EU- Cote d'ivoire, EU-ESA states, EU- Seychelles and EU Cameroon), all these are 'goods only' FTAs except for the EU-Cariforum's agreement which includes services. This classification of the EPAs as goods only is the basis of arguing that the EU concedes to interim EPAs agreement rather than a comprehensive agreement as its negotiating mandate had set out. Of course the EU's concession is only partial as it does not include the Cariforum.

What explains Cariforum's disposition to agree to a goods and services liberalization while the rest of ACP avoids service liberalization is a question that has been examined thoughtfully and thoroughly by among others (Bishop, Heron and Payne: 2013). In fact the one important caveat on the claim made here of a lack of variance in distribution characteristics among ACP states regards the extent to which the Cariforum group seems to give up more in policy space (than its African and Pacific counterparts) in almost every aspect of the contested areas. One is of course on having included services into their EPA agreements. Regarding the possibility to use export taxes, the Cariforum commits itself to abolishing use of ET in the shortest period - 3 years- while other ACP states manage to extract longer durations. Cariforum EPA is the only one among the ACP groups to have provisions relating to National Treatment in investment contrary to the position taken by African Ministers of Trade to defend against what they regard as EU encroachment of their policy space. Together with the EAC group, the Cariforum group also accepts the shortest duration - only 10 years - for availability of infant industry support provisions while other regions get longer durations. The point here is to state that even though the dissertation avers that there is general uniformity with regard to the distribution characteristics of ACP states' EPA outcomes, this does not discount some small differences in outcomes especially as relates to the Cariforum. The pertinent question regarding these small differences (which indicate Cariforum's greater forfeiting of its policy space) is whether these greater Cariforum 'concessions' are a function of Cariforum's greater material dependencies. Or do these greater 'concessions' on Cariforum's part in fact signal a

greater normative belief convergence between the Cariforum and EU than the EU has with other ACP groups?

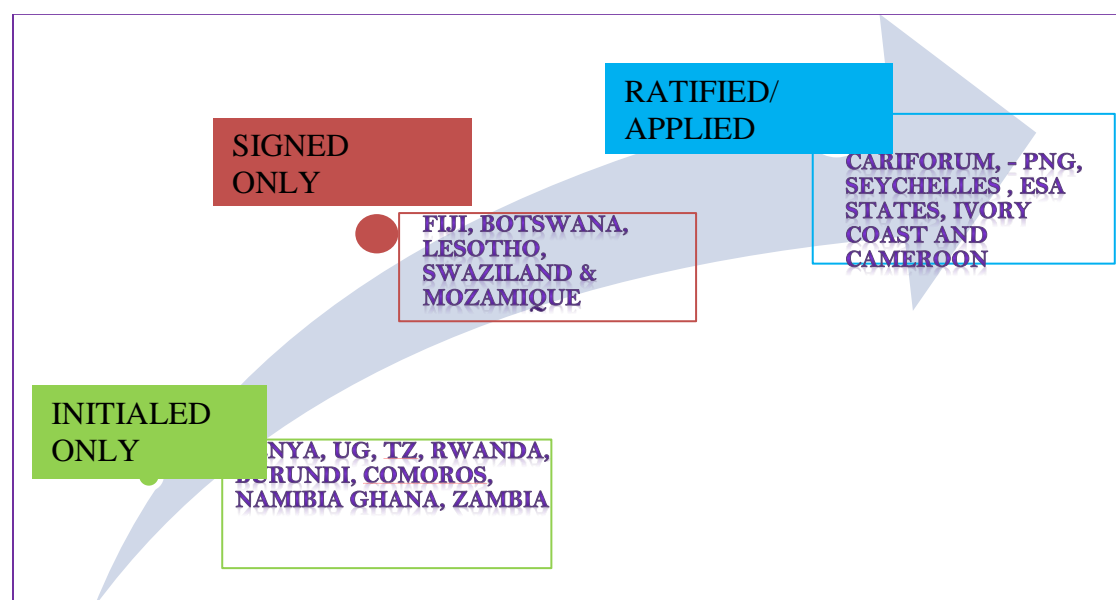
Having elaborated on the general uniformity of outcomes, we are thus left with the question of variances in negotiating timeframes (issue no. 8) in table 13 as the key variance of outcomes. Intra- ACP variances in time taken to accept (ratify) an EPA is thus the main dependent variable of the research. Why have some ACP states moved ahead of others in accepting and ratifying the EPAs? How compelling is the argument on material dependency of these regions/states in explaining the variance in proclivity to ratify an EPA? Having highlighted the relative uniformity of distribution outcomes of EPA in section 4.2, section 4.3 delves into examining the cogency of the deductive supposition on the role of trade dependence and tariff vulnerability as independent variables in causation of EPA efficiency outcomes. How persuasively can the propensity to accept (ratify) an EPA be explained by intra-ACP variances in trade dependence and tariff vulnerability from the EU?

4.3 Trade Dependence and Tariff Vulnerability - in Explaining Intra-ACP Efficiency Variances

As figure 2 and table 14 below show, the initialing ACP states can now be grouped into three distinct groups. In 2007, there were 35 states that initialed the EPA agreements. By initialing EPAs, these states not only accepted as authentic the EPA texts of their negotiations with the EU, but also affirmed their desire to upgrade their trading terms from Cotonou preferences to legally binding WTO bound EPA preferences. All 35 states initialed their EPA within three months of each other and in the final six months of 2007. As has been indicated above, since this frenzied acceptance of EPAs in 2007 was precipitated by the imminent expiry of the WTO waiver on EU preferences to non LDCs, it does partially affirm the theoretical suppositions on the primacy of material dependencies of weaker states in driving their quick capitulation to an agreement. As has been indicated by the ACP (initialing) states withholding of EPA ratification however, the initialing agreement was seemingly a bad case of compliance.

However, as figure 2 below shows, beyond 2007, a three-speed phenomenon has cropped up in ACP. There were those states which ratified/applied their EPAs a few years later (Cariforum, Oct 2008; Cameroon, Sep 2009; Ivory Coast, Dec 2008 and ESA, Feb 2012). Others have merely signed the agreements (Fiji and the SADC four – Botswana, Lesotho, Swaziland and Mozambique). All the other states remain stuck at their 2007 position.

Figure 2: Three Speed ACP in EPA Efficiency (variance in Speed to ratification)



What explains the intra-ACP variances in time frame of EPA negotiations- What explains EU success in reaching an agreement with some ACP state and not others?

Table 14: Variable Speed in Intra- ACP EPA Agreement after 2007

Region	No of members	Non-LDCs in group ⁵⁴	2007			
			2013	No EPAs	Initialed (2007)	Signed
SADC	7	4	1	1	4 (2009)	-
ESA	11	3	5	2	4 (2009)	-
EAC	5	1	-	5	-	-
Cent Afric	8	3	7		1 (2009)	-
West Afric	16	4	14	1	1 (2008)	-
Cariforum	14	13	-		-	14 (2009)
Pacific	15	9	13	1	1	1 (2011)
Total	76	36	40	10	11	15

Source: EU Trade (2012) Overview of EPAs.
http://trade.ec.europa.eu/doclib/docs/2009/september/tradoc_144912.pdf

Figure 2 and table 14 show the variable speed whose explanation the dissertation seeks to examine. Both show the EPA initialing ACP states and the legal status of each state's EPA. Table 14 also shows the seven ACP regional negotiating groups (column 1), the number of states in each of these groups and how many of the states in each group were non LDCs. Why have some states been more disposed to accepting EPAs than others? Is there a regularity that can cogently explain how to understand what has propelled some states/regions ahead of others in ratifying EPAs? As follows below, this examination begins with an empirical

⁵⁴ Hence GSP states which are not eligible for export to EU under the EBA

examination of the degree of correlation between the variable speed and degree of export dependence (and tariff vulnerability) of EPA initialing states.

Table 15 below classifies the 36 states (most of them Non-LDCs)⁵⁵ which have at least initialed an EPA into the three categories of EPA initialed, EPA signed or EPA ratified. **Is there correlation between export dependency and speed of EPA ratification?**

Table 15: ACP States' (and regions) Export Dependence on the EU

State	EU share of State's total Exports (2007) ⁵⁶		Regional Median share of exports to EU	No of Negotiation Years	EPA state
	2010	2007			
Mauritius	64%	69.8	58.6	10	Signed (2009) NOT legal Seychelles Ratified
Seychelles	56.3%	61.7			
Zimbabwe	20.5%	17.9			
Madagascar	52.3%	55.5			
Zambia	3.4	5.0			initialed
Comoros					Initialed

⁵⁵ Seven LDCs that have at least initialed an EPA include seven states in Africa (Burundi, Madagascar, Mozambique, Rwanda, Tanzania , Uganda and Comoros) and one state (Haiti) in the Cariforum.

⁵⁶ 2007 is the year when all EPA states initialed an agreement

Antigua and Barbuda	--			
Bahamas	13.7	38		
Barbados	7.0	13		
Belize	28.0	30.8		
Dominica	7.1	12.4		
Dominican Republic	10.0	17.1		
Grenada	7.8	0.8	19.6	7
Guyana	18.3	31.5		
Haiti	4.8	5.9		
Jamaica	15.1	26.7		
Suriname	18.3	22.1		
St. Lucia	18.0	44.3		
St. Vincent & Grenadines	57.6	74.7		
St. Kitts and Nevis	9.3	7.1		
Trinidad and Tobago	14.1	8.9		
Fiji	4.0	12.5		9
Papua New Guinea	7.3	7.7	10.1	
Cameroon	66.1		66.1	7
Ivory Coast	35.2	41.27		6
Ghana	38	44.0	42.63	12

Comprehensive and legal (2009)

Ratified (2011)
Legal for PNG
Fiji signed

signed

Signed (2009)
Ghana Initialed

Kenya	25.8	27.3	27.3	12	Initialed (2007), Not signed, NOT legal
Uganda	26.4	49			
Tanzania	17.6	27.2			
Rwanda	10.8	18.7			
Burundi	45.8	45.8			
					Signed but NOT (legal) Not signed No EPA
Mozambique	26.4			12	
Botswana		36.9	36.9	12	
Lesotho					
Swaziland					
Namibia					
S.A					

Source: DG trade, bilateral relations, statistics, 2012. / SACU exports TPR 2009 for the SACU region. Cameroon: <http://nl.nabc.nl/Portals/0/docs/Country%20information%20pdf/CAMEROON%20Fact%20Sheet.pdf>

We then establish the trade dependence of each of these states in order to examine if a persuasive pattern of causation (speed to ratification) can be attributed to its trade dependence on the EU. In the case of this study trade dependence is measured by the degree of export dependence of each of these states to the EU market. In addition to the relative duration of negotiation taken for each region, the table also shows, each regions (or state's) relative trade dependence on the EU and the state of its EPA (whether legal or not). Each state's share of exports to the EU as a percentage of its total exports (column 2 and 3) is used as a measure of export dependence. This measure has previously been used by among others Hirshmann (1945), Crescenzi (2003), Keohane and Nye (1977), Barbieri (1995, 1996, and 1998) and Gartzke (2003). This is to show the degree of asymmetrical dependence and vulnerability.

As table 15 shows all African regions are on the whole more trade dependent than the Cariforum states and Papua New Guinea or Fiji which have ratified or notified their EPAs to

the WTO. The regional median share of Cariforum and Papua New Guinea exports to the EU based on 2007 figures is about 19.6% and 10.1% respectively which is much lower than that of *all* African regions. In Africa, the East African Community has the lowest trade dependency among African states with a regional median of 27.3% while the four ESA states (Mauritius, Seychelles, Madagascar and Zimbabwe) show the highest trade dependency of 58.5%. In spite of their greater trade dependence, more African states are therefore rather astute in ‘resisting’ or not embracing the EPAs.

Table 16: Correlations between Efficiency and Trade Dependency

Efficiency	Categories/Degrees of trade dependency		
	Low (under 20%)	Middle (21-40%)	High (over 40%)
Ratified	Papua New Guinea, Cariforum (15)		ESA (Seychelles, Mauritius, Madagascar & Zimbabwe) Cameroon and Ivory coast
The 22 vs. 13 cleavage			
Signed	Fiji		(Botswana, Lesotho, Swaziland & Mozambique)
Initialed	Zambia, Rwanda	Tanzania, Namibia and Kenya	Uganda, Burundi

The picture that emerges from this table is one of a slightly muddled scenario in as far as trade dependency is concerned. This muddiness is represented by table 16. As the table shows, there

is no regular linearity in patterns of correlations in trade dependence and efficiency. In each category of efficiency (initialed, signed or ratified/applied) ratification being the best, we have representatives from each category of trade dependency – from high to low.

In this table we divide the degree of trade dependency into three –below 20%, between 21-40% and above 40%. We then match states in each of these categories of the independent variable (trade dependency) to their state of EPA completion. From a Hirschmanianque, material dependency interpretation, we would have expected a pattern of speed of EPA agreement/ratification to move along the lines of material dependency in trade. Clearly, this is not the case. The low dependency states of Cariforum and Papua New Guinea are lumped together with the heavily dependent ESA states plus Cameroon and Ivory Coast. While dependent states in East (EAC) and South (SADC) Africa are more resistant to EPA ratification. Of course the heavily dependent African states –Cameroon, Ivory Coast, Mauritius and Seychelles all agree to and notify their EPAs. As evident the argument of the exigency brought forth by fear of loss of market access for African non-LDCs is not very compelling with regard to propensity of EPA ratification. In fact the balance of African non-LDC states which have so far ratified or notified⁵⁷ their EPAs against those that have not stands exactly at 50:50 thus somewhat impugning on the cogency of trade dependency to compel agreement. While five African non-LDCs [Mauritius, Seychelles, Zimbabwe, Ivory coast and Cameroon] have notified their EPAs, five African non-LDCs which similarly initialed an EPA [Namibia, Ghana, Kenya, Botswana and Swaziland], have so far resisted ratification. If we take out Cameroon and Ivory Coast which have not in fact ratified their agreements, the balance falls soundly towards more non-LDCs that have not ratified. This balance of ratification or non-ratification among the African non- LDCs would suggest that over and above the pressure of

⁵⁷ Here I include even those states whose EPAs are only in force provisionally – Cameroon and Ivory Coast.

potential market loss, other factors provided the additional kick that propels some states to ratify or provisionally apply their agreement faster than others.

As this empirical cases show, contrary to theoretical supposition, it is the less trade dependent region/states that have actually conceded speedier (and definitive) agreement with the EU. As tables 15 and 16 show, the 15 Cariforum states plus Papua New Guinea and the ESA states have pulled ahead of the rest of the ACP in time in not only signing but also ratifying their EPA agreements and making them operational. In total, 22 states can be argued to have completed their EPAs while 13 are stuck. One could say 22 or 20 states depending on where you group Cameroon and Ivory Coast – whose EPAs have not been ratified hence making them legally unbinding, but whose EPAs are in provisional application. Strictly speaking in a legal sense the Cameroon and Ivory Coast EPAs are incomplete until they are ratified. These 22 (or 20) states hence represent a case of EU success in terms of its objectives over other regions. Moreover, besides merely the speedy completion of their negotiation, the seeming contradiction of these outcomes is further compounded by the fact that based on the results outlined in section 4.2.1 the Cariforum putatively conceded more policy independence in such areas as use of export taxes and shorter durations for infant industry safeguard, than some of the African states who are still negotiating and thus can still enjoy this policy space for longer durations.

What then explains this continuum between No EPAs and operational EPAs? What made the 15 Cariforum states, Papua New Guinea, Cameroon, Ivory Coast plus the 4 ESA states ratify their EPA agreements faster while rest remained defensive? As a Hirschmanesque interpretation as well as a Nye and Keohane's liberal theory's complex interdependence thesis would have it, the efficiency (how quickly a party's desired outcomes are achieved- in this case by the EU's) would depend on the relative vulnerability of the other party (in this case the ACP states). In cases of trade agreements, this vulnerability has been inferred to be the salience

of export market dependency. Such a thesis would then imply that the 20 ratifying states have greater trade vulnerability than the 13 (or 15) non-ratifying states. As evidenced by the variance in ACP states' and regions' export dependence on the EU shows (table 16 and 17) this trade dependence thesis doesn't hold.

In the case of EPAs the degree of a state's material vulnerability could also be deduced from how much a state's exports would suffer from a tariff re-imposition if, -by failing to ratify an EPA- an ACP state's export tariffs into the EU were relegated into the less preferential GSP scheme. Tariff erosions on Cotonou preferences would increase the costs of exports to the EU. This vulnerability is established based on the relative increase in tariffs once the nonreciprocal tariff preferences granted under the *Cotonou Agreement* were eliminated. In theoretical terms greater tariff erosion vulnerability would of course make a state more disposed to accepting to ratify its agreement. A state's vulnerability can be deduced from the degree of tariff costs of having the standard GSP re-imposed, in case the state failed to reach a reciprocal free trade agreement.

Table 17: Degree of Tariff Vulnerability by Initialed ACP states

STATE	Vulnerability based on tariff jump on export		Regional	Regional Averages
Ghana	67%		West Africa	Ghana
Kenya	62%			Ivory Coast 60.5
Cote d ivoire	54%			Mauritius
Mauritius	47%			Madagascar
Suriname	42%		ESA	Zimbabwe 37.5

Swaziland	40%			Seychelles	
Cameroon	38%	Central Africa		Cameroon	38
Zimbabwe	38%			Kenya	
Madagascar	37%			Uganda	
Jamaica	35%	EAC		Tanzania	
Uganda	31%			Rwanda	28
Namibia	26%			Burundi	
Tanzania	25%			Jamaica	
Seychelles	20%			Suriname	
Trinidad & T	20%			Trinidad & T	
Fiji	12%			Barbados	9
Mozambique	11%			Belize	
Barbados	10%			Antigua &	
Rwanda	10%			Guyana	
Belize	9%			Dominica	
Antigua &	9%			Haiti	
Guyana	9%	CARIFORUM		Bahamas	
Dominica	9%			Grenada	
Haiti	7%			St. Kitts	
Bahamas	6%			St Lucia	
Lesotho	5%			St. Vincent	
PNG	5%			Fiji	
Botswana	4%	Pacific		PNG	5
Grenada	4%			Botswana	
St. Kitts	4%	SADC		Lesotho	
St Lucia	4%	(BLSM)		Swaziland	8.5
St. Vincent	4%			Mozambique	

Source: ODI (2007): 8

This could be thought of as BATNA. Or the opportunity cost of NOT agreeing to ratify its agreement. The use of tariff vulnerability is even more nuanced than trade dependency since it indicates precise tariff changes based on the specific products which would fall under increased tariff if a GSP system were to be re-established by the EU.

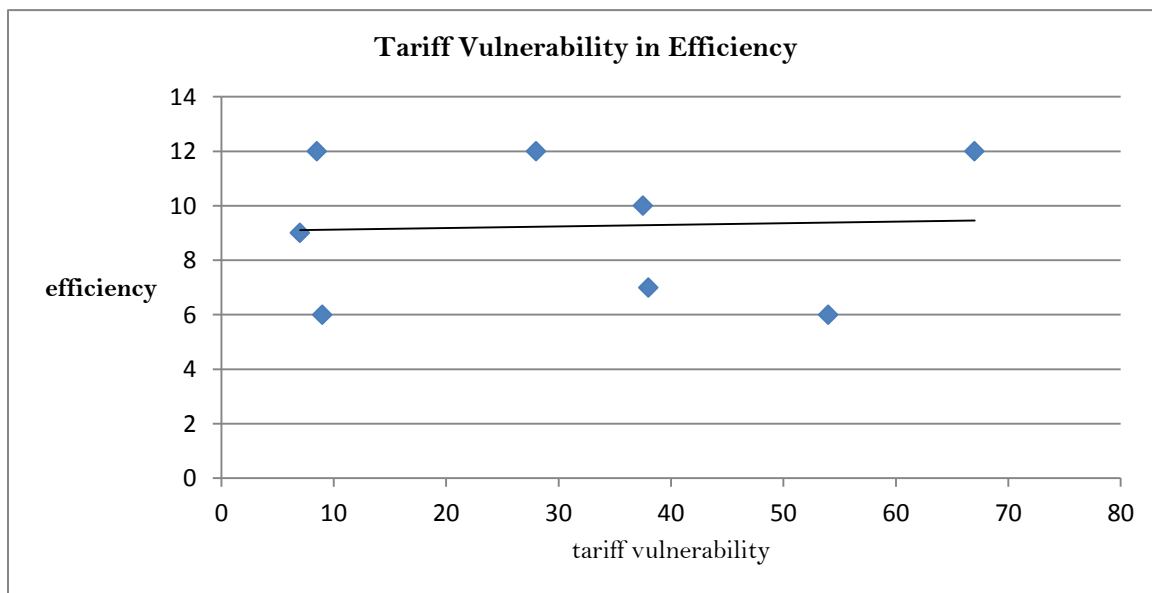
Table 17 above shows all the initialing states and the level of their tariff vulnerability based on the expected tariff jump on exports if their export tariff were downgraded to the less generous the EU's Generalised System of Preferences (GSP). The data is obtained from a report prepared and published by the Overseas Development Institute (ODI) in 2007 called "The Costs to the ACP of Exporting to the EU under the GSP".

The higher the percentage of tariff jump, the more a state could be said to be vulnerable, since the expectation is that states would like to maintain export competitiveness in the EU market. As the table shows, some states that have ratified the EPA agreement would have suffered heavily from tariff erosion. Such states include the ESA states – Mauritius, Seychelles, Zimbabwe and Madagascar. Compared to other Caribbean states, Suriname also would have suffered steep increases in tariffs under the GSP. Similarly both Cameroon and Ivory Coast would also have been affected by steep tariff increases. As has been remarked a few times now, these two latter states have in fact not ratified their EPAs and hence their legal status hangs in the balance.

Nonetheless, the use of tariff vulnerability does provide a more focused picture and possibility that material dependencies have in fact been considerably essential in compelling EPA ratification. Yet we are still faced with significant cases of outliers. First, the two states with the highest tariff vulnerability –Ghana and Kenya- are two African states which have bucked from ratifying. Are these errant outliers or do they point to other factors at play? Second, out of the

ratifying 15 Cariforum states, 12 of these have a low tariff vulnerability of 10% or below. Papua New Guinea too, the only Pacific state to ratify its EPA so far has a comparatively lower tariff vulnerability of 5%. The median vulnerability for the Cariforum as a whole in fact is 9% and thus relatively lower than that of most African states that were much slower in ratifying their EPAs. Yet it is the Cariforum states and the PNG which have a lower tariff vulnerability that have definitively completed their EPAs. Graph 1 below shows a simple scatter plot presentation of the proximal correlation between tariff vulnerability and the efficiency in EPA completion. As the graph shows the correlation is positive (as expected) but very weak.

Graph 1: Weak Correlation between Tariff Vulnerability and Efficiency



Tariff vulnerability does perhaps help in drawing the differences among African states and why some of them - based on tariff vulnerability - may have opted to operationalize their

EPAs earlier than others. Certainly it is plausible that three ESA states [Mauritius, Zimbabwe and Madagascar] may have been motivated by the fear of tariff re-imposition. But even if we were to argue that the ratifying African states (ESA states plus Cameroon and Ivory Coast) were driven by their tariff imposition fears, we would be at a loss to use the same variable (fear of tariff increases) to explain why the relatively lower risk Cariforum states and Papua New Guinea precede their African counterparts into EPA acceptance in spite of their lower tariff vulnerability. Moreover, how do we account for Kenya and Ghana's resistance to ratify in spite of their very considerable tariff vulnerabilities? Ultimately as the scatter plot graph 1 shows, the potential correlation between tariff vulnerability and efficiency is rather weak as the trend line of the correlation has a very low gradient.

From these two variables for material vulnerability -trade dependency and tariff vulnerability - a pattern emerges of the Cariforum states and Papua New Guinea preceding their African counterparts in EPA legal ratification in spite of their relatively lower trade dependence and tariff vulnerability. Following on are the ESA states which on the other hand show very high levels of dependency in trade and tariff vulnerability. Overall the Cariforum states and Papua New Guinea show greater enthusiasm for EPA completion than their African counterparts. This variance is even more poignant if we classify Cameroon and Ivory Coast as non-ratifiers. Legally speaking the only African states that have completed their EPAs are the four ESA states whose EPA is in force definitively.

Section 4.3 has been used to examine the cogency of the deductive proposition that variance in propensity of a state to agree to an EPA would be highly contingent on its material (trade or tariff) dependence. This supposition is not cogently affirmed in the case of EU-ACP EPA negotiation. Generally, it is the less vulnerable Cariforum states that have been more disposed to completing their EPA faster than the more materially dependent states. Moreover, the Cariforum states have even ratified a comprehensive EPA that includes services unlike that of

all other states (Pacific and African) which involve only goods. Ultimately, it the less materially vulnerable ACP states that are more agreeable to getting into EPAs. Yet, if material disparities and vulnerabilities among ACP states do not explain variable speed in ratification, then how do we account for variable speed?

Based on this finding one could perhaps imagine a few alternative potential explanatory suppositions of why the Cariforum, PNG and ESA states strike ahead of other ACP states in completing their EPA negotiations. Here I propose two. First, one could present the hypothesis that perhaps the EU has been more exacting in pushing for ratification in those states that have ratified. This would be an argument based negotiation strategy/dexterity as the independent variable in explaining variance in speed of ratification. The logical extension of such an argument would be that the more trade dependent and tariff vulnerable states have been better at resisting EU offensive. Some scholars have imperceptibly raised the possibility of negotiating capacity as an explanatory variable in EPA outcomes. Although it would seem paradoxical in explaining the efficiency outcomes of EPAs, Tony Heron has for instance made mention of CARIFORUMS' vaunted negotiating machinery as having the 'bureaucratic capacity and supranational authority deemed necessary to negotiate region-wide trade agreements, but which is generally absent in the ACP' (Heron, 2010:2). Similarly, as seen in the ACP negotiating mandate the ACP states had themselves assumed that the solidity of their coalitions would enhance the chances of better outcomes against the EU. The argument on negotiating dexterity as a variable to explain outcomes is thus theoretically valid and one that could be subjected to empirical enquiry. However, if one takes the position that a delayed ratification was in favor of the ACP - (due to the continued application of non-reciprocal Cotonou preferences in their exports to the EU and without fiscal losses of EU import tariff liberalization) - and thus if one takes the Sharp, et al, (2000) definition of power as the ability not only to dominate but also to resist resistance (Few 2010: 30), then it is the mostly African countries that are slow to accept (ratify) an EPA whose negotiation dexterity (in resisting the EU) would be considered superior - not the Cariforum's.

A second hypothesis could be that the states that have ratified their EPAs had a greater normative convergence of the need/utility of EPAs with the EU than those that have not. This is the normative persuasion as an independent variable in catalyzing faster ratification. Being confronted with these possibilities, as section 3.2.2.3 has detailed elite conceptual interviews were conducted with experts close to the negotiations to give insights in new, more cogent variables for explaining variance in efficiency outcomes. The results of the conceptual interviews are discussed in section 4.4 below.

4.4 Outcomes of Elite Interviews: Why did you sign on to EPAs? (A few verbatim notes)

As outlined in the methodology section (3.2.2.3) the elite interviews on ACP negotiators are primarily geared towards evaluating negotiators motivations for accepting (whether initialing, signaling or ratifying) an EPA. This section details some few truncated verbatim responses of ACP negotiators on the question: why did you sign on/agree to an EPA? A few of the conceptual interviews were not recorded due to interviewee's request to avoid being seen as speaking on behalf of the region or state (as in the case of the EAC). These section does not aspire to record the entire interviews and is very purposefully selective to highlight those sections where the interviews were specific on the general disposition of states on motivations for accepting an (why they accepted an EPA or not), and their stance on asymmetry (why or if the EU should compensate them and other asymmetrical aspects of the negotiation). The verbatim outline of a sample of the elite interviews is given essentially as a methodological guide in how I arrived at my ultimate explanatory variables – norm convergence. It is what the negotiators said in these interviews that guided my selection of key variables for examination in the following section.

Country: Mauritius (ESA region)

Official: Sunil Boodhoo – Deputy Director for International Trade Division, Ministry of Foreign Affairs Mauritius

Me: What were your fundamental objectives of EPA?

Mr. Boodhoo: We wanted to make trade (with EU) **more predictable, by having it on legally secure ground... and of course we wanted an arrangement that is compatible with the WTO rules.**⁵⁸

Me: So you did very much agree with the EU's in terms of the objectives of EPAs?

Boodhoo: Yes, yes, sure, of course! We are on the same wavelength. EPAs will also help **lock in economic and trade reforms that Mauritius is undertaking** and as such we would like EU assistance in aid to trade to help in this process.

Country: Seychells (ESA region)

Official: Myra Laporte – Senior Economist, Development and Regional Integration, MFA, Republic of Seychelles

Me: Why did you sign the EPAs?

⁵⁸The highlighted sections of the response are done to point to the basis on which deductions on the motivation for signing, initialing or ratifying is done.

Ms. Laporte: We signed to maintain our competitiveness ...by signing we managed not to lose our biggest trading partner which is the EU

Me: But do you feel that you would enhance your economic competitiveness by signing?

Laporte: Well, well, it's not enhanced in comparison to what it used to be before (under Cotonou), but it just maintains our competitiveness, otherwise one would have lost out because the tariff (new GSP tariff) would have been introduced. So we have managed to maintain our competitiveness.

Official: Guillaume (Seychelles too): ... signature of an EPA would not have been that detrimental, **but we have signed to maintain our preferential access to the EU market.** On the other hand, it's not the EPA that might be detrimental to Seychelles but EU regulations that are not directly related to EPAs but can affect our competitiveness.

Country: Fiji (Pacific Region)

Official: Shaheen Ali – Permanent Secretary for Trade and Industry and lead negotiator for Fiji in EPA

Me: ...so what you actually signed for is the interim EPA, right?

Mr. Ali: That's right. We had to sign an interim agreement to ensure that our **preferential exports continued beyond 2007**, because they were going to expire, and so whatever was on the table, up to that date, end of 2007, and there were a lot of contentions and outstanding issues, so we had no choice basically but to sign to ensure that one of our vital industries does not collapse. Fiji had sugar and PNG had fish.

And After 2007, we have been having negotiations for a comprehensive agreement without much tangible outcomes I must say.

Country: (ECOWAS Rep.)

Official: Yaya Sow. – Head, ECOWAS Representation in Brussels

Me: How do we understand the wins and concessions between the EU and ECOWAS?

Mr. Sow: First, Ghana has just initialed, while Cote d'Ivoire has signed the interim EPA. **They signed because they didn't have a choice.** It was just for them to avoid disruption of trade with the EU. Because they are not LDCs, if at that time they had not signed, the EU would have imposed tariffs on their goods.

Ghana and Cote d'Ivoire have accepted and signed everything in the EPAs, including the MFN and the SAT issues. ECOWAS is negotiating a regional agreement with the EU as a region and in Ghana and Cote d'Ivoires interim EPA, they say that as soon as ECOWAS has a regional agreement with the EU, they will stop the interim one and they will come to ECOWAS. On regional contentious issues, on SAT we are saying 70% volume of liberalization, they are saying 80%. On MFN they say that if we should give advantages to China or India, we should extend it to them, we say no, If China and India give us advantages we can reciprocate, but we cannot give it to you, unless you did the same to us.

Country/Region: CARIFORUM

Official: Junior Lodge - CARICOM Office of Trade Negotiations

Me: What were the Cariforum's initial objectives in getting into an FTA/EPA at the beginning...what did you have in mind around 2002/2003?

Mr. Lodge: One, binding the preferential agreement that we had and therefore making it **immune to WTO litigation**, because you remember the Caribbean has had a rich experience in WTO dispute settlement especially with respect to Bananas and sugar. And thus binding our preferences and was important....and we used the WTO waiver deadline only as a motivation, as a pretext to conclude our negotiations.

Second, the nature of our economic relations with the EU was one where the EU provided preferential market access and market access was here defined, solely in terms of goods and a tariff preference. Increasingly, our market share in the EU was eroding and that was because market access in and of itself is not enough. We needed to spur the regulatory and productive capacity for non-tariff measures, SPS, TBT....And **we felt that in order to spur construction of regulatory framework in those areas we needed to have commitments in those areas, because what that does is that it forces you to address your regulatory framework. And that is why we again felt that we needed to have a comprehensive agreement not limited to goods but looking at a whole range of disciplines because every modern trade agreement that's what it had.**

Me: Was it not possible for the Cariforum to reform the regulatory framework in NTB domestically without EPAs?

Mr. Lodge: An FTA does two things. It binds the reforms and two it advertises those **trade reforms especially to your major trading partners** and especially in countries such as ours which are capital importing countries. To the EU, it's a good way of flagging and saying, hey, here I am, I am doing something serious.

Verdict on motivation for the Cariforum: Normative motivation on appropriateness of EPAs, in spurring domestic regulatory reform, in advertising those reforms to investors and in locking the EU preferences in a legally binding litigation proof manner (diminishing political trade dependency).

Region: EU

Officials: Remco Vahl and Jana Popelkova

Me: You did well with the MFN, how did you persuade almost all regions to accept it?

Ms. Jana: All regions didn't like the MFN clause from the onset.

Me: How come that the ACP regions eventually accepted it?

Mr.Vahl: MFN is still an issue for most states, so it's come back to haunt us. I think the MFN clause is not as diabolical as people make it to be, because what it says is that don't discriminate against the EU with regard to its main competitors.

Me: Do you feel that there were states/regions that better understood or agreed with the broad EU EPA objectives as an economic development initiative?

Vahl: Yes. Yes I feel that. But it's not a continental thing or even regional thing. It's not even a national thing. In the Caribbean we were faced with a set of negotiators who were particularly keen on gearing the EPA towards their own trade and developmental objectives. And it's no surprise that theirs was a comprehensive and one of the earliest EPAs. I understand from Jana that in PNG, there was a **similar mindset**.

Ms. Jana: In Mauritius (too) I could tell that it's a **mentality**. People had the spin to do things. In some countries it was a Matter of personalities, like Malawi where the president was opposed.

Verdict on EU views on ACP states Motivation on speed of acting on EPAs. Partly it was trade dependence, partly it was a matter of personalities and partly it was matter of learning curve (the pacific states). Some states learned faster than others. And for some states it was a matter of a mental disposition.

Region – EU

Official - Poul Nielson – a former EU Development Commissioner

Question: Did you at any point in the negotiation, feel that the ACP regions or states acted with a sense of entitlement to EU compensation? That the EU owed them the favour of extra financial compensation?

PN: No. As stated above, the total envelope of the EDF was decided already in 2000. The premise of the EPA's being some kind of burden on the ACP countries is also wrong. But the perception of this has been one reason why the process has been so slow.

Question: CARIFORUM chief Negotiator was in 2008 quoted as saying that for the Caribbean states, 'revenue losses will be compensated by capitalisation of the market access opportunities available to firms' (In the driving seat of the Caribbean 'Machinery'. Meeting with Dr Richard Bernal*). This reflects an understanding that there shouldn't have been expectations of compensation from the EU. Over the course of EPA negotiations, did you experience variances with regard to different ACP regions' expectations for compensation of revenue losses due to the EPA FTA? Is there any ACP region in particular whose understanding of the development dimension you remember, as more agreeable to the EU's position?

PN Answer: Again – you are asking me a question that should have been put to my successors in the Commission. But it is true, that the less poor and generally better organized Caribbean states were more ready to see themselves as moving into the competitive international marketplace than many African countries. But this relates to differences in the background and economy of these countries – not to the negotiations with the EU.

Question: One of your biggest contributions to the EPAs process is perhaps your role in defining the 'development dimension' of EPAs. This definition is along three broad themes; EPAs as enhancing economic stability and growth, EPAs as promoting regional integration and EPAs as allowing differential treatment among ACP states. You sought to depict EPAs as automatic development tools because trade liberation leads to development. How was this

view of development by the EU different from the existing Cotonou Agreement view of what constituted development? How was it reflective of ‘a new era of a relationship’ in development thinking as you put it in one of your speeches? (SPEECH/03/451 Date: 06/10/2003)

PN: To understand the relationship between trade and development in this context one has to realize the change that took place with the Cotonou Agreement, signed in June 2000. After having lost the banana-case in the WTO we had to make a new regime that would be WTO compatible. This was clear to all and was not something that was “smuggled through” the intense negotiations. Liberalisation was not seen as a central tool for development. It was part of what was necessary to pursue. But many have neglected the fact, that integrating the small national economies in the different regions in especially Africa is really the important factor. Opening up to the neighbors and shifting from import taxes to VAT was necessary – with or without the cooperation with the EU. It is wrong to describe this as if I meant, that liberalization is THE way to growth and development.

Based on the conceptual interviews, the latter proposition in section 4.3 was seen as a more widely appearing in respondent’s answers and was taken up in the Subjective Value Index questionnaire for more elaborate assessment/testing. How does the ACP state’s normative persuasion (or lack of it) on the appropriateness of an EPA affect their propensity to accept one. By just observing these few responses given above, the motivations for the CARIFORUM group for instance are markedly different from those of other ACP states. While all other states show a form or other of compliance (reluctant agreement due to the exigencies of potential market loss) there is not even imperceptible resistance on the part of the Cariforum negotiators. This difference forms the foundation of my variable selection. The outcomes of a more rigorous testing of regions normative feelings/position on EPA appropriateness and the state of asymmetry is taken up in section 4.5. As outlined in section 3.2.2.4 the SVI is used to measure the subjective feelings of negotiators on (a) instrumental outcomes, (b) convergence

in negotiator beliefs on EPA utility (and asymmetry), and (c) Negotiator feelings on institutional entrapment during the EPA process. Of most importance in evaluating the variance in efficiency outcomes is the degree of convergence on negotiator beliefs on the utility of EPAs. Section 4.5 thus delves into examining the empirical evidence on ACP states levels and variances in belief convergence.

4.5 *EPA Utility and ACP-EU Asymmetry: Belief Convergence in Intra-ACP Efficiency Variances*

As Bjorkdahl, (2002: 13) has observed, ‘a central problem with the conceptualization of international norms is how it is empirically possible to recognize a norm’. As outlined in section 3.2.2.4 the Subjective Value Index questionnaire is used to examine the proposition that belief convergence (as norms) between the EU and ACP states plays a more compelling parameter in influencing the efficiency in EPA completion. By belief convergence the quest is to examine the extent to which ACP states were persuaded by the putative necessity and objectives of EPA (enhancing economic growth, export diversification etc) as well as their view on the place of asymmetry in EU-ACP relations. Should it be maintained, reduced or expanded? As explained in section 3.2.2.4 3 key questions in the CNO category of the questionnaire are used to measure/evaluate the ACP states belief convergence with the EU. What is important highlight at this point is that these three main aspects of belief convergence reflect the EU’s *framing* of what the utilitarian objectives of EPAs would be. As section 2.2 of the 2002 EU mandate spells out, EPAs were conceived ultimately as tools for economic development. As the EU saw it,

‘EPAs are designed for that purpose: by establishing a stable, predictable and transparent framework for economic and trade relations between the ACP countries and the EU, EPAs are intended to mobilise economic operators at local, national, regional and international levels and to promote local economic activity and attract regional and international investments. By removing border measures to trade between the parties as well as other factors causing market segmentation, they will enlarge the markets of ACP countries, which will allow for economies of scale, will improve the level of specialisation, will increase competitiveness of the ACP States

and will help attract investment. This, in turn, will lead to an increase in trade flows in the region, with the Community and with the rest of the world, thereby promoting the sustainable economic and social development of the ACP countries' (Commission of European Communities, 2002).

The belief convergence therefore referred to in the questionnaire's section CNO tests the extent to which different ACP were persuaded about these goals set out as EPA objectives. Did they belief (intrinsically) in these objectives?

Question 6 tests the extent to which ACP states were persuaded on the argument that reciprocal EPAs were the best option to correct for Cotonou preferences WTO incompatibility. To what extent were different ACP states in fact persuaded by Cotonou Agreements (Article 36-1) pledge to 'to conclude new WTO compatible trading arrangements, *progressively removing barriers to trade*⁵⁹ between them and enhancing co-operation in all areas relevant to trade' (Community of European States, 2002). This question examines not only the states commitment to having WTO compliant agreements with the EU but also the states view of asymmetry with the EU, since removal of trade barriers would ultimately entail enhanced reciprocity unlike the prevailing Cotonou asymmetrical preferences. The states' disposition on asymmetry is again examined more directly in question 10. The greater the feeling amongst an ACP state's negotiators that the EU ought to compensate them for their liberalization losses, the greater we can deduce a clientlist attitude fuelled by a higher degree of asymmetrical expectation and relational exchange. Those states which do not seek or expect compensation

⁵⁹ Italicization{ mine}

show a higher propensity for more 'equal' relations where the exchange is more purely commercial than relational. Such states would be more likely to accept an EPA faster even if the EU doesn't give material incentives to catalyze their acceptance. Questions 7 and 9 test the negotiator persuasion on the supposed putative benefits of an EPA as stimulus tools for economic growth. Question 8 examines the ACP states view on the urgency to complete the EPA negotiations. More explication of the SVI questionnaires is done in section 3.2.2.4.

Table 18 below shows the outcomes from SVI responses on negotiator beliefs on EPA utility. The responses come from 28 states out of 35 states which initialed an EPA, representing a response rate of 80%. The table below includes Angola whose results are not factored in the analysis since Angola did not initial an EPA.

Table 18. ACP States' Variance in Degree of Belief Convergence on Asymmetry and EPA Utility

ACP States	Belief convergence (CNO)					Total	Weighted indv. Total	Weighted regional averages
	Item 1.	Item 2.	Item 3.	Item 4.	Item. 5			
Cariforum	6	1	-	7	7	21/4	5.25	5.25
PNG	7	4	4	-	1	16/4	4	4
Mauritius	2	4	3	2	3	14/4	3.5	
Seychelles	4	4	5	6	2	21/5	4.2	3.52

Zimbabwe	5	6	1	5	1	18/5	3.6	
Madagascar	4	4	4	1	1	14/5	2.8	
Botswana	6	2	7	1	7	23/5	4.6	
Mozambique	4	6	6	4	4	24/5	4.8	
Swaziland	4	3	5	1	1	14/4	3.5	3.4
Namibia	2	3	1	1	1	8/5	1.6	
Angola	7	4	2	1	4	19/5	3.8	
Kenya	7	7		4	1	19/4	4.75	
Rwanda	3	4	3		4	14/4	3.5	4.1
Zambia	5	2	-	2	1	10/4	2.5	2.5

Source: Computed from the SVI responses

Higher regional score = higher degree of belief convergence on EPA utility and satisfaction on asymmetry.

From the table, column 1 has the ACP states proximally grouped into their respective negotiating regions. PNG represents the lone Pacific state while the Cariforum group of course comprises 15 states. The states in these columns are the states from which responses were received. Columns 2-6 represent the score from each state/region on the five belief convergence question. Column 7 shows each state's total score on the belief convergence (an addition of scores from item 1 -5) while column 8 shows the weighted individual state average, which is the total score divided by the number of responses. The normal number of responses should be 5 (based on the five questions) but since there are NA responses in some cases, the average is done to adjust to the exact number of responses. In the Cariforum case for instance, item 3 was a NA response and therefore the scores used are from only 4 (rather than 5) questions. It is the same case for Rwanda on item 4. Column 9 then provides the regional aggregate which is an average for the states' individual scores in each region. The use of a regional average is particularly important since it not only factors in the regional nature of the

negotiations but also evens the comparison between the Cariforum and other regions since we have a single aggregated score for the entire Cariforum which comprises 15 states. From the table, the weighted regional averages show that it is states which have a higher belief convergence to the EU on EPA utility/asymmetry that have been most disposed to ratifying their EPAs. The Cariforum leads, followed by Papua New Guinea and then the ESA states. These three regions have signed the EPAs and their EPAs are at least in provisional application. The EAC remains an outlier because although it has not signed or ratified its EPA, its belief convergence with the EU remains high. This can be most likely be explained by the high intensity of regionalized negotiations and the development and commercial differences between Kenya and the rest of LDC EAC states.

Table 19 and Graph 2 below show the inverse relationship between depth of belief convergence and the duration taken to EPA completion. The more a state (or region) was persuaded on the putative objectives of EPA, the shorter the duration it takes to ratify its EPA- in spite of more or less the same distribution characteristics for all ACP states.

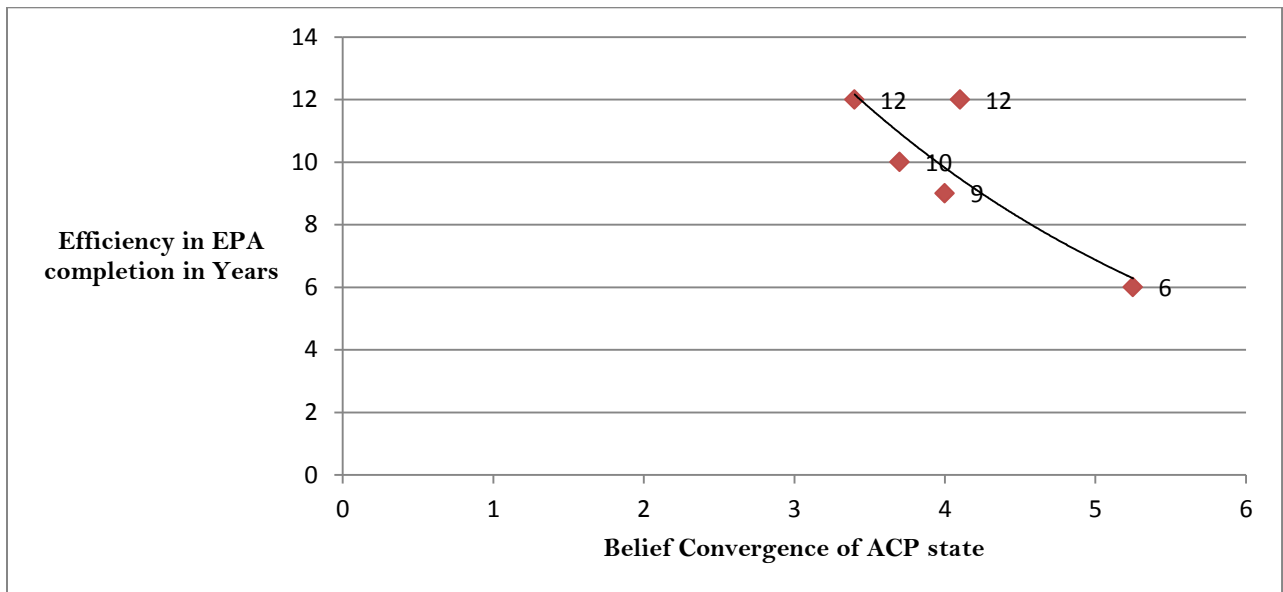
Table 19: Correlation Patterns between ACP Belief Convergence and EPA duration

Region	EPA State	Period notified/signed	Weighted regional Score	CNO	Duration taken to ratification in Years
Cariforum	Ratified	Oct, 2008	5.25		6
PNG	Ratified	Oct, 2011	4.0		9
ESA states	Ratified	Feb, 2012	3.7		10
SADC States	Only signed	June, 2009	3.4		12
EAC	Only Initialed	Nov, 2007	4.1		12



As the scores on belief convergence in column 9 show, there is almost a considerably clear linear pattern of correlation between an ACP regions' belief on EPAs and asymmetry and its propensity to expeditiously complete an EPA. (See columns 4 and 5 in table 19). With belief convergence score of 5.25, the Cariforum tops the rest of the ACP groups, followed by PNG, then the ESA states and then the SADC states. The order of the scores corresponds almost perfectly to the patterns of efficiency in ratifying or merely signing the EPA. The only outliers are the EAC states which show a high level of belief convergence in spite of their being very low of efficiency (they have only initialed their EPAs). By way of measuring the believe convergence in EPA utility and asymmetry, we derive a compelling pattern with regard to each region's state of EPA completion. In spite of the few data points, a rather neat pattern of inverse relationship emerges between the degree of belief convergence and time taken to completion emerges as shown in graph 2. At the least, as graph 2 shows, (I contend) this pattern is more compelling in explaining propensity to ratify an EPA than was the case with material dependence (trade and tariff vulnerability). This is a relationship more robust than that shown in graph 1.

Graph 2: Positive Correlation between Belief convergence and Efficiency



4.6 *What Explains ACP states' Successful Defense against the EU in Negotiating Time-frames?*

As briefly intimated at the beginning of the dissertation (section 1.2) the second question on EPA efficiency is the question of 'what accounts for ACP's inordinate resistance to EPA conclusion from the EU considering the EU's putative power dominance in the negotiation?' This regards the unique strength that ACP states have collectively shown in resisting a quick conclusion to these agreements. While sections 4.3 and 4.5 deal with intra-ACP variances in efficiency, section 4.6 examines explanation of efficiency in the super dyad (ACP vs. EU). In spite of the putative material asymmetry between the EU and the ACP states, the EPA negotiations are the longest running EU FTAs with neither completion nor suspension. In the EPAs the ACP states do not seem to be the supplicant demendeurs that Elgstrom suggests ACP states to be. They hold their own quite successfully against the EU. The argument of longer negotiating durations as being a 'success' for the ACP states is based on two elements; One, that longer negotiating time frames were in favor of ACP states (more than the EU) since as long as the EPA negotiations were ongoing, the EU would keep on applying the more preferential non-reciprocal tariffs to ACP exports into the EU. In addition, since the EU already

had almost 100% liberalization for ACP imports under the EBA, EPAs entailed a disproportionate liberalization on the part of ACP states. Second, compared to other recent EU attempts at region-to-region FTAs, particularly with 'south' regions, the EPAs have been the longest running without a conclusive agreement or disagreement (suspension of negotiations).

Other EU attempts at region-to-region FTAs have either been completed (for one case) or suspended (five cases) within five years of the start of negotiations. As table 20 below shows it took at least 6 years before the first (most efficient) EPA was concluded with the Cariforum group. For other ACP regions, negotiations have stretched to nine, ten or twelve years. This nature of protraction without completion or suspension of negotiations is chiefly unique only to the ACP states. Why has the EU been so concessionary? What explains this protraction without the EU pulling out and unilaterally imposing the GSP?

As table 20 shows, in recent years the EU has attempted a few other region-to-region FTAs but with a low success rate. Most of these negotiation attempts have ended up being suspended in the first 3-5 years of negotiation. The ASEAN FTA was suspended within two years of negotiation. In 1999, the EU launched FTA negotiations with Mercusor, but these negotiations collapsed after five years, in 2004. Similarly the EU-Andean Community FTA collapsed within three years of the start.

⁶⁰ For a detailed outlay of the trade policy and tariffs that the two parties apply to each other and the expected/predicted impacts of tariffs liberalization on the ACP see Fontagne, Mitaritonna and Laborde (2008) 'An Impact Study of the EU-ACP Economic Partnership Agreements (EPAs) in the six ACP Regions'.

Table 20: Duration and Status of Recent EU Region-to-Region FTAs

Region-to region	Negotiation Duration			Status
	Start	end	In Years	
EU- ASEAN	2007	2009	2	suspended
EU-GCC	1990-1991	2008	1	Suspended (1991)
	2002- 2008		6	Suspended again (2008)
EU-Mercusor	1999	2004	5	suspended
EU-Andean	2007	2010	3	suspended
EU- Central America	2007	2010	3	Concluded

Source: EU commission Trade (2013) Overview of FTA and Other trade negotiations

http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_118238.pdf

http://eeas.europa.eu/gulf_cooperation/index_en.htm (for the GCC negotiations)

The EU-Gulf Cooperation Council FTA has been the longest running and rivals the ACP EPAs in duration. Started in 1990, it was quickly suspended in 1991, then re-started in 2002 and suspended again in 2008. But of course unlike the Gulf Cooperation Council FTA attempt which has been on and off, the EPAs have not been suspended for a single day in their ongoing 12 year run. The one successful case of a completed region to region EU FTA is with six⁶¹ Central American states which took only three years. And as table 21 shows, this pattern

⁶¹ The six Central American states are Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama.
http://trade.ec.europa.eu/doclib/docs/2011/march/tradoc_147660.pdf

of either quick conclusion or suspension within six years of start of a negotiation process is similarly shown with the FTAs (called Association Agreements) that the EU initiated with four African Mediterranean states as part of the EU's Barcelona process in the mid-nineties.

Table 21: Duration of EU- Euro Mediterranean FTA Negotiations

Region	Negotiation time frame		% Share of Exports to EU	FTA state
	Years	No. of years		All WTO Legal
Egypt	1995-2001	6	37.4	
Tunisia	1994-1998	4	76.7	
Morocco	1995-1996	2	62.2	
Algeria	1996-2000	4	46.2	
South Africa	1995-1999	4	28	

Source: Nabli Mustapha, 2001. Euro Mediterranean Agreements timeframe

South Africa: Sudworth, E., and K. Van Hove. 1998. European Union-South Africa Trade Negotiations: Insights into an ACP-EU Negotiating Process. (Working Paper No. 57). Maastricht: ECDPM - See more at: http://www.ecdpm.org/Web_ECDPM/Web/Content/Content.nsf/0/22fca781fecdc24bc1256c87004bfd78?OpenDocument#sthash.nsKmn4J8.dpuf

In the case of the Euro-Med FTA agreements with the four North African states, the longest FTA negotiation (with Egypt) took six years. With the EPAs, it's the fastest region (Cariforum) that takes six years. Table 21 shows each of these North African states and South Africa, and the years it took each of them to finalize an FTA with the EU. These North African states are not part of the ACP. As it shows all the four North African states took between 2 and 6 years to complete the FTA. This is in contrast to the ACP states, many of which even after initialing an agreement in 2007 have not completed an agreement after eleven years. As may be apparent, a position taken in this dissertation is that a longer negotiation period favors the ACP states because it delays the implementation of the less favorable EPA agreements than Cotonou Agreement. At the minimum, operationalization of an EPA would mean forgone tariff income from importation of EU products. A quick conclusion of an FTA/EPA is therefore necessarily in the EU's interest and not necessarily so for the ACP states. And as these two tables are designed to show, unlike other regions or groups of states which are not bound to the EU by some special historical institution, the ACP has held its own very successfully in resisting a speedy conclusion of these EPAs.

As Ulrike Lorenz (2012) has observed, the variance in and successful extension of negotiating time frames for different ACP regions indicates that it is each of these regions, rather than the EU that were in charge of determining their negotiating time frame beyond the original five years (2002-2007) envisioned at the beginning of the process. As Lorenz observes, 'for the first time, European negotiators had to substantially leave their pre-agreed negotiation path and positions due to the immense pressure from ACP countries, regional organizations, and non-state actors – and still have not been able to finalize negotiations that had initially been expected to only take five years until the end of 2007' (Lorenz, 2012: 1). This unusual ability of the ACP states in not only dictating the negotiating time frames but also pushing for re-negotiation presents a foundational puzzle of this work. As results on SVI tests on EU's subjective attitudes in negotiation with the ACP states show, the EU's (and ACP states)

attitudes about their institutional relations have chiefly affected the pace and propensity of the two parties to be concessionary and thus indisposed to breaking hard negotiations.

The EU negotiating machinery being very centralized and institutionalized, the SVI responses were submitted to the EU (Directorate of Trade in charge of EPA negotiations) and were collectively answered by the section's head of unit by agreement on their side. Being in charge of the seven desk officers, the head of unit was the lead negotiator and in charge of steering the EU's preferences and positions. In any case, the EU as a whole had a single negotiating mandate. As indicated in the method section, questions under NOI are designed to evaluate negotiator feelings about the role of institutions and EU-ACP historical relations in constraining the behavior, preferences and consequently outcomes of the EPA negotiations. How intensely do the norms of EU-ACP historical institutions and relations affect the conduct and outcomes of the EPA negotiations? Based on the hypothesis that the EU is more constrained by the nebulous notion of EU-ACP 'special' relations, the NOI question seek to test the impact of the three defining norms of special relations and the extent to which they constrain the EU to be more concessionary than would be usual with other regions not bound by 'special relations'.

The concept of exactly what EU-ACP 'special relations' entail is misty, but it is a concept that is patently alluded to by almost every scholar -Ravenhill, Elgstrom, Mahler, Hurt, Zartman, Stevens, Bilal, Parfitt, Heron, Meyn, and others- of EU-ACP relations. In an attempt at crystallization of the concept in this thesis, 'special relations' comprises three elements; a feeling of *EU special responsibility for ACP states*, a tendency for both parties to emphasize *consensus in negotiation* (no history of breakdown in negotiations in more than 50 years of special relations) and both parties commitment to *regional integration*. These are all factors that are in fact listed as principles of EPA negotiations in EU's framing of its objectives in EPA in its negotiating mandate. Without interpretation of the concept to the negotiators, but with a

precise 'code' on interpretations to the answers provided, SVI questionnaires intent on measuring commitment to these principles were presented to them with questions intended to assess their feelings on these principles' influence on their preferences and actions during the negotiation.

Table 22: EU Subjective Value on Institutional Constraints in Negotiations with ACP States

Institutional Norm	SVI Questions	EU Score
EU responsibility for ACP	How influential was the idea of maintaining EU-ACP 'special relations' important in informing your negotiating objectives, preferences and attitudes?	5
	As an EU negotiator did you feel that the EU's negotiating positions/offers on the FTA aspects of the EPAs (eg. in trade liberalization duration, volume of liberalization, negotiating timeframe, RoO, etc) were more generous than for <u>other recent EU's FTAs with developing countries</u> ?	7
Eventual consensus in negotiation	If so on question 3, (4 - 7) was such generosity informed by the ACP-EU special relations and the EU's sense of special responsibility for ACP states' development and good economic performance as these states (ACP) integrate into the global trading system?	7
	How much was the extension of negotiation deadline from (2007 to 2014) informed by an EU motive to have mutually acceptable EPA agreements through consensus, even if it took more time beyond the initial WTO imposed deadline to do so, rather than have agreements (GSP or EPAs) largely dictated by time constraints?	7
	In your experience, to what extent was EU	

Regional Integration		willingness to extend the negotiating period beyond the WTO mandated 2007 deadline, informed by EU negotiators sensitivity not to undermine (or avoid accusations of antagonizing) the stability of EU-ACP relations/partnership?	7
		In your experience, to what extent was speed of negotiations held back by EU negotiators sensitivity to breaking-up, or perceptions of breaking-up of regional ACP regions coherence, or outright lack of coherence among ACP regions?	6
Total institutional constraint	average	Total Score/6 questions	6.5 = strong

Table 22 above shows the results from the SVI responses of EU negotiators feelings on the extent of institutional/or regime constraints on them. The highest possible score being 7, an average score 6.5 represents a very strong degree of norm (or institutional or regime) entrapment for the EU. From the results, the EU negotiators feel highly constrained by the nebulous regimes that characterize EU-ACP relations and constitute what is called 'special relations'. As questions on the norm of EU 'special responsibility' for the ACP states show for instance, the EU feels obliged to be 'more generous' with the ACP states than with other developing states. Interestingly the EU feels greater pressure on the need to maintain 'special relations' than most ACP states report to feel.

Similarly the EU feels obliged to keep the negotiations going in order to have agreements driven by consensus rather than by time constraints. Considering that the EU has now set a unilateral deadline, we can infer that the EU at some point decided that this consensus approach would perhaps keep EPAs going indefinitely. As the EU indicates, it is moderately sensitive to being seen as antagonizing EU-ACP relations and thus willing to keep the negotiations going. It is insightful to note that the issue of ACP-EU relationship, and its

potential disintegration, was also strategically used by ACP states to coax the EU to avoid setting a 2014 negotiating deadline. As Hon. Musikari Kombo, the co-president of the EU-ACP Parliamentary Assembly at the time put in his speech in response to the EU's Resolution 1528, 'The ACP side is strongly appealing to its partners to show flexibility and reconsider its position regarding the proposed amendment to the Market Access Regulation 1528/07. *Our relationship has gone on for so long and is so deep that it should not be put to threat*⁶² by issues that can otherwise be amicably resolved to the mutual benefit of us all' (Kombo, 23rd Session of the ACP-EU Joint Parliamentary Assembly). EU sensitivity (even vulnerability) to a breakdown, or perceptions of a breakdown in relations with its ACP partner states was thus real. And finally the EU is very keen on not being seen as scattering efforts of regional integration among ACP states. Because of EU's sensitivity to anything that might be seen as ruining this 'special' relations, the EU becomes overly concessionary with the ACP states as the SVI results in table 22 show. This is in line with Lempereur (2009: 560) observation that in cases where the EU has a privileged economic relationship with another state (such as the ACP states) the upholding of the relationship takes precedence over the actual outcomes of the negotiations. This relationship in turn spurns a regime through which the states interact.

In line with Krasner definition of regimes as

'sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations. Principles are beliefs of fact, causation, and rectitude. Norms are standards of behavior defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-

⁶² Italicization is mine to highlight the use of relationship as a bargaining chip.

making procedures are prevailing practices for making and implementing collective choice (Krasner, 1982: 186)

the argument here is that the EU is deeply constrained by the regimes of ‘special relations’ which govern and constrain its negotiating maneuvers with the ACP states. Whether defined as principles or norms, the regimes engendered by ‘special relations’ can explain EU inordinate concessionary disposition towards the ACP (on matters of time) and thus the protraction experienced in EPA negotiations. Even though it seems to characterize EU-ACP negotiations going back to *Lome 1*, this idea of a ‘not so weak south’ as Lorenz, (2012: 7) calls it is one that has not been so widely acknowledged or systematically fitted within broader institutionalism theories. Ravenhill, (1979: 160) does of course allude to it, and does try to explain it as it regards renegotiation of Lome agreements in the early 1980s. Like Ravenhill, I argue and explicate at length in the following chapter (analysis) that ACP strength can be explained by collective clientelism. But beyond Ravenhill’s identification of the clientelism, I venture into explaining why/how it works by placing clientelism within a formal institutionalist conceptual frame. As I argue, ACP collective clientelism is made potent by the institutional regimes produced by ACP-EU special relations. As it appertains specifically to EPAs, only Lorenz (2012) has tried a systematic pursuit of how to explain ACP strength. I therefore use these final paragraphs of this chapter to address her arguments on ACP resistance power.

In her case she avers that regional positions followed from the preferences of regional hegemons (Kenya and South Africa). In explaining South Africa’s convoluted position on EPAs it sounds like Lorenz is actually describing South Africa’s normative position (ideological disposition) on trade, in which case we would agree. However considering that Africa’s putative regional hegemons (South Africa, Nigeria, Kenya) have not signed or ratified their EPAs while some states in those regions have, (Ivory Coast, Seychells, Mozambique, Lesotho and others), I find Lorenz’s contention on the role of hegemons as lacking force. In the

case of the EAC, it's actually the East African LDCs [Uganda, Tanzania, Rwanda and Burundi] through the EAC secretariat that have heaped pressure on Kenya not to go it alone and sign an EPA in spite of Kenya's high propensity to do so (see SVI response for Kenya). So in the case of Kenya, while it is East Africa's economic powerhouse, its actions have been constrained by loyalty and commitment to the regional agreements (the East African Community Customs Protocol) to always conduct regional negotiations. (See CUTs International 2011 'Report for the Workshop: EAC/EC-Economic Partnership Agreements (EPAS): Kenya's Perspectives'). Thus Kenya⁶³ is a hegemony that is in fact constrained by the regional agreement rather than one that leads or charts the course of the EAC region.

How is it that that putatively trade dependent and weak ACP states seem uniquely successful in resisting faster conclusion to EPAs? As the SVI questionnaires sought to examine and as the results show, EU's inordinate concessionary attitude towards the ACP is fueled by the unique 'partnership' regimes that guide EU-ACP relations. It is these regimes that the ACP in turn exploits in its offensive against the EU in a fashion that other states outside of such privileged relations (ASEAN for example) are not able to exploit. These sorts of regimes constitute the institutional norms which in turn can engender either cooperativeness or entrapment in a negotiation round. Thus as I argue in the final chapter of the dissertation, from a theoretical point, normative institutionalism aptly explains EU's amenability to ACP states due to the institutional culture inculcated by historical EU-ACP relations. This will be taken up and explicated further in the following chapter.

⁶³ Similarly see the Kenyan Ministry of Trade press release affirming Kenya's regional loyalties: http://www.trade.go.ke/index.php?option=com_content&task=view&id=158&Itemid=98

Chapter 4 has been aimed at providing empirical data that illuminates on the questions addressed in this dissertation. First, through document analysis, a comparative analysis of the distribution outcomes of EPA shows that overall, the EU prevails in most of the contentious issues of 'division' in the EPA negotiations. The final outcomes in distribution characteristics of EPAs on most contested issues reflect the EU's position. Even though there are some differences in ACP regions outcomes, these differences are only auxiliary to the primary EU preference. For instance under 'substantially all trade' the ACP states frame of liberalization ranges between 80% and 98%. So while Seychelles for instance agrees to liberalize 98% of its trade, Zambia, Ivory Coast and Zimbabwe only agree to liberalize 80%. The bottom line on SAT is that all ACP states accept EU terms of a minimum 80% liberalization. Similarly the EU is able to push and insert itself assertively in ACP states use of export taxes, a position opposed by all ACP states at the beginning.

The ACP states however do deliver some success in extending duration of the negotiation, limiting the scope of negotiations (comprehensive or goods only) and completely eliminating non-execution clauses from the negotiation. My dissertation focuses on the duration taken by various ACP states and what propels some states to accept an EPA faster while others hold out. This propensity to complete or withhold EPA ratification is what I refer to as efficiency.

Secondly, through conceptual elite interviews, divergences in states' normative stance on the quality of asymmetry in EU-ACP relations and persuasion on EPA utility are identified as lead (independent) variables that explain the efficiency variances in EPA completion among ACP states better than asymmetrical material dependencies. Thirdly through more expansive standardized Subjective Value Index questionnaires, the primacy of these attributes (normative stance) in explaining EPA variances and overall efficiency is examined and found to have more cogency than structural (material interdependence) interpretations. In finalizing

the dissertation, the analysis, chapter five, will look at what these findings, if plausible, entail for theory development in asymmetrical negotiations.

5 SO WHAT? THEORISING ASYMMETRICAL NEGOTIATIONS FROM THE EPA PROCESS AND OUTCOMES

What then does the EPA process and efficiency outcomes tell us about the state of theory in asymmetrical negotiations? Or how does the EPA process illuminate on potentially novel conceptual frameworks of understanding the outcomes of asymmetrical negotiations? This penultimate analytical chapter seeks to apply the empirical findings of the preceding chapter to theoretical developments in asymmetrical negotiations. If the findings of the empirical section are credible (as I hope they are) then constitute a veritable grounds in contributing to two_hitherto theoretically under-acknowledged or empirically untested variables in predicating outcomes of asymmetrical negotiations. The two aspects are also finely intertwined with each other.

First, the outcomes of asymmetrical trade negotiations may be as much norm-governed as maybe structure-governed. Norm governance refers to the mandates and principles engendered by institutionalized political relationships. Is a state's normative suasion in fact not the more primordial, elemental determinant of a state's preferences, before structure? At least in a liberal theory frame this would be the case since norms inform preference, and structure only constrains action. In Moravcsikian liberal theory terms, preferences are 'causally independent of the strategies of other actors and, therefore, prior to specific interstate political interactions, including external threats, incentives, manipulation of information, or other tactics (Moravscik, 1997: 519). As such why then should outcomes of asymmetrical negotiations (negotiations involving exchange of non-comparable resources) be almost exclusively seen as a product of structural dependencies, structural power and vulnerabilities? Is it not as imperative to first, examine the normative basis of states preference formation?

Based on empirical findings of the Subjective Value Index surveys from ACP states where normative suasion (outside of material considerations) seems to play a critical role in explaining intra-ACP efficiency variance, section 5.1 thus builds a conceptual framework that infuses normative persuasion as a basis of preference formation and subsequently its import in explaining efficiency outcomes of a negotiation and the conditions under which norms or structural resources are key in precipitating outcomes.

Secondly, what is the theoretical essence of collective clientelism? '*Collective Clientelism*', as coined and defined by John Ravenhill (1985) remains a drifty three-decade concept whose theoretical essence has not been fully situated within a wider theoretical setting in International Relations. In his seminal book *Collective Clientelism: The Lomé Conventions and North-south Relations*, whose empirical data was based on the *Lomé 1* negotiations, Ravenhill accurately observed that the ACP states were able to extract more preferential treatment than other developing states from the EU (then EEC) by associating more closely with the EU. He calls clientelism an associative strategy used by the weak. How does clientelism work? Why are smaller states able to derive more from a bigger state if they are more closely intertwined in deeper relationships with the materially superior state? As a strategy why does clientelism work? Why are stronger states (the EU in this case) perpetually vulnerable to this strategy? This is a question that Ravenhill and others scholars who have used the concept to explain ACP -EU negotiated outcomes have not pursued, or that has been accepted as self-evident. Ravenhill's accurate observations on clientelism and EU relations with the ACP preceded the great profusion of literature on the institutionalization of EU relations and governance in the late 1990s and 2000s. Perhaps it's time to reconcile this strategy to a theoretical grounding in this institutionalism literature. Section 5.2 to gives a theoretical grounding of clientelism within institutionalism, and why it works.

5.1 *Determinants of Efficiency in Asymmetrical Negotiations: The Role of Norm Convergence and Expectation on Asymmetry*

Scholarship on how small (er) states engage in international economic negotiations – either with success or not- has been a subject of modest scholarly output in recent years such as from Emily, Deere-Birkbeck and Woods (2010); Odell,(2010); Narlikar, (2013); (2010); Odell, (2000); Panke (2010); Jackson, (2013); and Bilal, De Lombaerde and Tussie, (2011). Yet the role of norms in directing or influencing the course of how smaller states negotiate or succeed has not been part of much of this literature especially with regard to an empirical demonstration of norm influences in actual negotiations involving smaller states. In making suppositions on the sources of negotiating power, Bilal, De Lombaerde and Tussie’s volume for instance [*Asymmetric Trade Negotiations*] which is deals with actual cases of asymmetrical negotiations involving African and Latin American states avers sources of power that are almost exclusively structural. ‘We argue that that the bargaining power of states in trade negotiations relies on at least four dimensions’ (2011:14). These they enumerate as market size, domestic institutions, role of civil society in supporting government and types of coalitions formed. The role of norms in either informing preferences or precipitating agreement is somewhat absent in such current empirical works of which not incidentally, the ACP-EU EPA negotiations constitute a major case.

The objectives of this section is to highlight the empirical findings from chapter 4 and use these findings to frame and construct a theoretical framework that encompasses the conditions under which norms and structure operate in precipitating negotiated outcomes - with particular regard to efficiency - of asymmetrical negotiations. The proposed model, it is argued corrects for a narrow Hirshmanisque structural interpretation of asymmetrical economic negotiations where outcomes are often assumed to be almost ineluctably a function of economic dependencies of the subordinate state. By use of this model and the empirical evidence coming out of section 4.3 and 4.4, we elect to highlight the role of norms as

independent causal variables while at the same time not discounting the role of material asymmetries in fomenting a state's preferences.

Asymmetrical economic negotiations are just like any other negotiations except that in such negotiations there is an expectation of an exchange of some dissimilar commodity rather than a division of a similar contested commodity or resource. The EU-ACP EPA negotiations show this expectation. In order to understand the outcomes of an asymmetrical negotiation one has first to divide the negotiation issues into their two constituent parts; (i) the normal, overt 'economic' aspects under negotiations, and (ii) the more obscure elements of asymmetry under negotiation. The argument proffered here is that in asymmetrical negotiations, efficiency will depend on the two states' belief convergence/divergence on the economic utility of agreement in the normal parts; and the convergence/divergence on satisfaction in the state of asymmetry as reflected by positions in the covert, 'asymmetry' aspects of the negotiation.

In the EU-ACP Economic Partnership Agreements case, the negotiation is just like any other in as far as the negotiation is strictly a Free Trade Agreement where the commodity of division is tariff liberalization. This is the normal part. Under the normal part, tariffs are the common 'pie' of division. As far as the normal part of the FTA is concerned, the driving motivation to reach an agreement is the extent to which parties in a dyad are persuaded of the benefits (utility) of getting into an agreement – in this case, how persuasive is the argument that an EPA agreement would have positive economic outcomes on both parties as the EU frames it? However, unlike a 'normal' FTA where the tussling and bargaining is confined to the common commodity of division (tariffs in goods and services, NTBs, quotas, transparency in procurement, competition policy, etc.) the EU-ACP negotiations involved the asymmetrical element which is marked by an expectation of asymmetrical exchange. The driving motivation in the asymmetrical aspects is to maintain the balance of asymmetry. When one party feels that the other is overreaching in trying to unfairly tilt this balance, then a long protraction follows,

where the covert contention under negotiation is what the acceptable balance of asymmetry is. This protraction can only be resolved by a time deadline or a concession on at least one of the parties on re-balancing of asymmetry. The interaction between these two qualities and the extent to which both parties agree or disagree determines the degree of efficiency. In the case of EU-ACP, the balance of asymmetry is one of the question of what is the fair balance between an exchange of influence (ACP states) and additional financial resources (EU).

In the case of the EPA negotiations the asymmetrical expectations runs on both sides. On the EU side, beyond the FTA aspects relating to division of tariff liberalization, the EU expected to be granted a Most Favoured Nation (MFN) status by the ACP states without conceding the same to the ACP states. Similarly in an overreach that that went beyond the objectives of making EU-ACP treaties WTO compliant, the EU rammed in negotiations and agreements with sunset clauses on use of export taxes and infant industry bilateral safeguards. These elements of the negotiations were non-reciprocal and applied only to ACP states unlike the SAT (Substantially All Trade) liberalization which applied to both parties. Moreover the EU expanded the scope of negotiations beyond trade in goods only contrary to the wishes of the ACP. All these are aspects that show the EU's asymmetrical reach as they went beyond the essentials of WTO complementarity.

On its part, ACP states had asymmetrical expectations of its own. The negotiating mandate of the ACP states expressed expectations of not only asymmetrical liberalization, but more pressing and ultimately more contentious, expectations of financial compensation from the EU. ACP's asymmetrical expectations on the EU are reflected in its negotiating demands in its mandate as shown here. For the ACP asymmetrical expectations were extended even into the normal 'economic' division of tariffs liberalization part where the ACP called for asymmetrical liberalization skewed in its favor.

The provision of special and differential treatment to ACP States must be an essential consequence of the differentiation between the ACP and the EU based on equity and recognizing their different levels of development

ACP Negotiating Mandate, 2002, section II, e

Moreover, given the possible adverse effect of reciprocity on domestic production and fiscal stability in ACP States, the latter cannot *a priori* accept to provide reciprocity in EPAs with the EU. In view of the differences in the level of development between the ACP States and the EU, the ACP cannot be required to make the same level of commitments under EPAs as the EU, particularly as regards market access.

ACP Negotiating Mandate, section II, c, 21

Most contentiously the ACP sought to be compensated by the EU for its income losses due to liberalization. As its negotiating mandate states, the ACP wanted to be indulged.

As a result of the implementation of EPAs, ACP countries will face a new set of adjustment difficulties and challenges such as revenue loss, unemployment, the upgrading of productive structures and human resources and the building of the requisite institutional capacity. Additional resources **will have to be provided to the ACP** to assist them in meeting the inevitable adjustment costs.

ACP Negotiating Mandate, section II, K33

Secure the underwriting by the EU of the costs of adjustment associated with the implementation of EPAs through the creation of a financial facility additional to and distinct from the EDF

ACP Negotiating Mandate, section III, A, h

Why should one region or state financially compensate another in an FTA if the latter's liberalization is of its own volition? Why does the ACP behave as though in accepting a reciprocal FTA it was doing the EU a favor, in return for which it sought financial rewards? And why does the EU so confidently and successfully ram through all the WTO-plus elements of the EPA in spite of their being non-essential in WTO compliancy? Well, all these anomalies just go to show the acceptable deviations inherent in an asymmetrical negotiation where the objectives of both parties are not just about the utility of an economic agreement, but also equally important an obscure negotiation of the proper state of asymmetrical relations between the two parties.

As most ACP states readily admit, and as evidenced by ACP state's collective hasty initialing of EPAs at the end of 2007, agreements to initial by the 35 states who initialed an EPA in 2007 are overwhelmingly driven by structural asymmetrical trade dependency. However what happens after 2007, in terms of a movement towards and resistance to ratification (which is what these thesis has concerned itself with mostly and as shown by the negotiators responses in the interviews and questionnaires) suggests that much more than trade dependency plays a role in disposition to ratify an EPA. Thus as evidenced by the delays to ratification of EPAs after 2007, the most fractious contentions have actually been less about the economic aspects of the FTA (substantially all trade) but more about the asymmetrical aspects of the EPA (compensation, MFN, Bilateral Safeguards, Export taxes and the scope -comprehensive or goods only) and aspects that go beyond the original basic necessities of EPAs - WTO complementarity. Ultimately, after initialing it is the ACP states that are normatively closer to the EU in terms of their belief in the economic utility of EPAs and similar expectations of asymmetry that ratified their EPAs more expeditiously. Belief in potential economic utility of

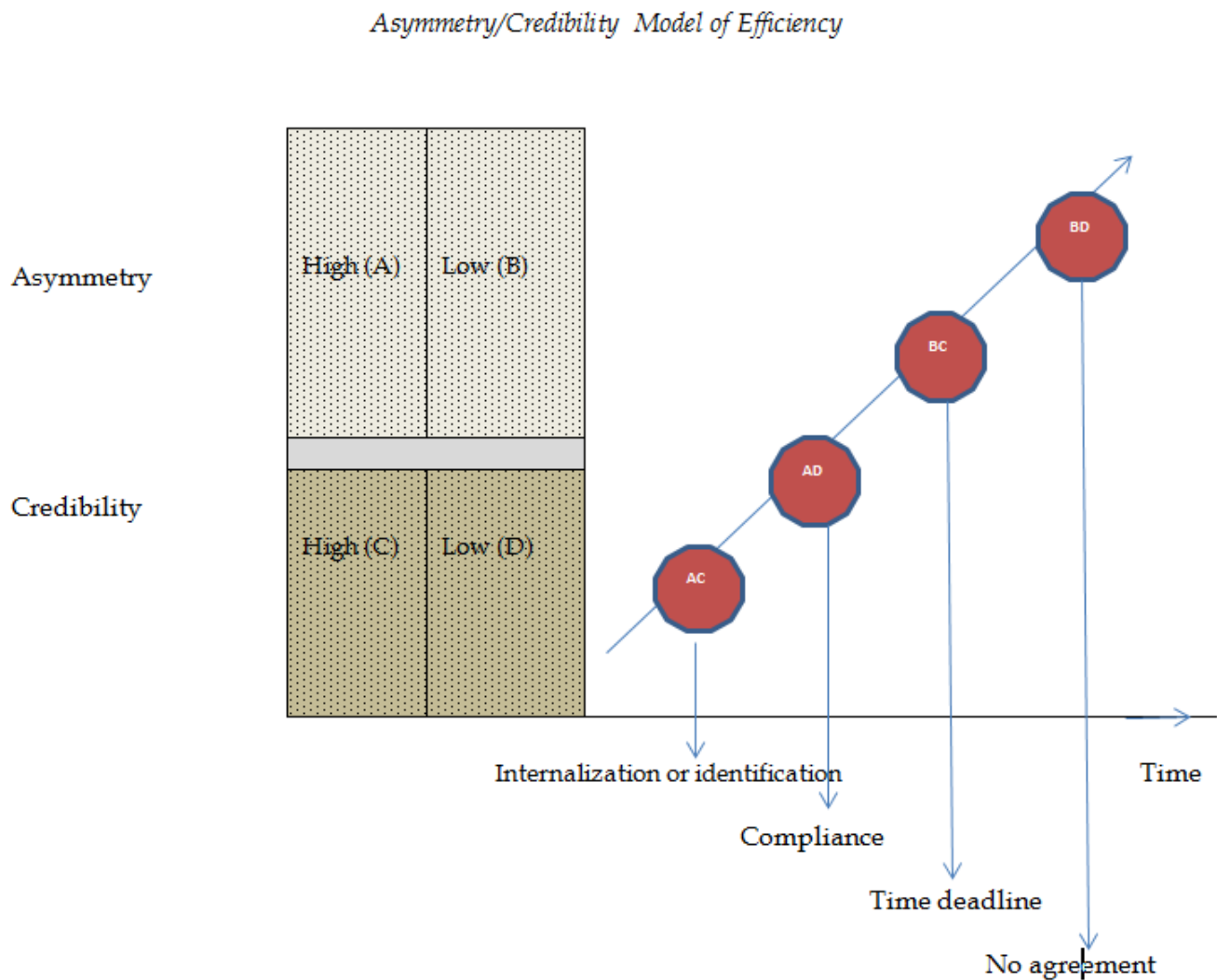
EPAs required a high level of persuasion in a cloudy economic theory that one could spur growth by simply making trade with the EU reciprocal. It's a shaky proposition which was firmly and repeatedly championed by the EU⁶⁴.

Unlike market access which was a more immediate and predictable benefit or loss to ACP states, belief in EPAs economic utility was a norm that was rooted in a state's ideological disposition to the unproven putative benefits an EPA. A state may have 'believed' in the appropriateness of EPAs either because it was really persuaded so, or because it believed this be true because the EU said so.

As shown by results in section 4.5 (table 18), the efficiency of an asymmetrical negotiation goes beyond simply asymmetrical interdependence as most interpretations seem to aver. Based on these findings, I posit that efficiency (defined as a state's propensity to readily and speedily ratify its EPA) is determined by the convergence and divergences between the two parties on two principal variables: (a) normative convergence/divergence in persuasion on the mutual economic utility of the negotiated agreement, and (b) convergence/divergence on fulfilling mutual expectations on asymmetry. Figure 3 below presents the conceptual frame of predicting and understanding efficiency outcomes of an asymmetrical negotiation such as EU-ACP EPA negotiations.

⁶⁴ Championed not only in its negotiating mandate as has been documented but in other document by the EU commissioners, Mandelson and Michel. See 'An open letter to anti-poverty campaigners from EU Trade Commissioner Peter Mandelson and EU Development Commissioner Louis Michel'

Figure 3: Asymmetry/Credibility Model of explaining Efficiency in Asymmetrical Negotiations



Typologies of Persuasion

Figure 3, outlines the conceptual framework between these two variables [asymmetry and credibility] and the expected variances in degrees of efficiency associated with each set of

normative persuasion. Just before explaining the model, we introduce a political psychology outline of typologies of persuasion as a way of understanding agreement or resistance to an EPA ratification. In order to explain this framework its necessary make references on some foundational social-psychological theorizing on sources of social influence among groups when a behavioral change occurs.

As defined at the beginning of the thesis a negotiation process is one involving, 'a sequence of actions in which two or more governments address demands and proposals to each other for the ostensible purpose of reaching an agreement and *changing the behavior of at least one party*' (Odell, 2000:10). Negotiations are therefore inherently about changing the behavior of an individual or group (state in this case). When one or both parties in a dyad change their behavior from its original preferences to the final agreement, why does it do so? Social Psychologist Herbert C. Kelman (1961) identified three motivational sources of group behavioral change which I find pertinent in explaining ACP states propensity to accept and ratify an EPA. These he labeled, compliance⁶⁵, identification and internalization. The definition of each is as indicated below.

⁶⁵ Scholarship on compliance in IR has expanded considerably and even more so in European Union studies and the word is now more loosely used in IR, without the strict psychological use by Kelman. This is especially so in new Social learning theories. Checkel (2001) in 'Social Learning and European Identity Change' for instance claims that some constructivists regard compliance as a function of social learning resulting in a 'non instrumental discovery of new preferences'. Now, clearly in Kelman's sense of the word, if persuasion is not for instrumental purposes, then it is not compliance. It could be identification or internalization. Used here therefore is the more concise Kelman's version.

Compliance can be said to occur when an individual accepts influence from another person or from a group because he hopes to achieve a favorable reaction from the other. He may be interested in attaining certain specific rewards or in avoiding certain specific punishments that the influencing agent controls.

Identification can be said to occur when an individual adopts behavior derived from another person or a group because this behavior is associated with a satisfying self-defining relationship to this person or group. By a self-defining relationship I mean a role relationship that forms a part of the person's self-image. Accepting influence through identification, then, is a way of establishing or maintaining the desired relationship to the other, and the self-definition that is anchored in this relationship.

Internalization can be said to occur when an individual accepts influence because the induced behavior is congruent with his value system. It is the content of the induced behavior that is intrinsically rewarding here. The individual adopts it because he finds it useful for the solution of a problem, or because it is congenial to his own orientation, or because it is demanded by his own values-in short, because he perceives it as inherently conducive to the maximization of his values.

Kelman, 1961: 62-64

Efficiency of asymmetrical negotiations (speed in reaching agreement and ratification) can then be explained in terms of its relation to variances in negotiating states' subjective motivational source of their agreement based on these typologies of persuasion. Only behavior change through internalization or identification can be regarded as strictly normative as its motivations are based on a veritable convergence of the negotiators normative preferences. Agreement through internalization is based on value congruence while agreement from

identification is based on understandings of social or institutional appropriateness. Identification agreement has a lot to do with agreement which is not predicated on an intrinsic persuasion, but based on what is seen or thought of a behavior consistent with sustainability of a relationship. As this conceptual model suggests, the propensity for an ACP state to accept the EU's propositions in an EPA would largely depend on two qualities: (a) normative convergence/divergence in persuasion on the mutual economic utility of the negotiated agreement, and (b) convergence/divergence on fulfilling mutual expectations on asymmetry.

From figure 3, if there is a high degree of persuasion by the two parties in a dyad on the economic suitability and utility of EPAs as well as high satisfaction on state of asymmetry consequent to an agreement then time wise the negotiation round will be swift (AC). Agreement here is based on the belief internalization of both states on the appropriateness of the objectives of the agreement. Similarly under this category speedy agreement could be based on identification based reciprocal acquiescence formed on institutional entrapment to the rules of appropriateness in maintaining viable exclusive political relationship.

If persuasion (of the materially weaker state) on the economic utility of an agreement is low, but there is high satisfaction by both states on the state of asymmetry, then the weaker state becomes more agreeable or vulnerable to the superordinate's material incentives or coercion (AD). In this case since the materially stronger state has the preference of a speedy agreement (high persuasion on utility of an agreement) and the resources to ram one through (by a material inducement of the subordinate state), then it's likely that the outcomes will be achieved relatively fast. The only difference is that here, agreement is precipitated by compliance of the weaker state. It could be argued that AD describes the situation which previous EU-ACP agreements (Younde to Cotonou) have gone through.

When there is high agreement/persuasion on the utility an agreement but low agreement on the state of asymmetry, the negotiation becomes protracted as parties in a dyad bargain on how to re-calibrate their asymmetry (BC). In this situation a time deadline becomes the defining variable. Asymmetry in economic negotiations involves finding the right 'conversion rate' in a crude barter system of exchanging influence and financial/material rewards. When there is low agreement on the asymmetry, it's usually either because the putative materially stronger (superordinate) state does not wish to part with as much material benefits as the materially weaker (subordinate) state B expects, or when the materially weaker state B is not willing to concede as much influence to state A, as state A expects. As the table shows, here reaching an agreement will be slow and the agreement is likely to be forced by time a deadline upon expiry of the stipulated negotiating time frame. Alternatively, the agreement can be speeded by shelving of the more contested 'asymmetrical' aspects from the negotiation and confining the negotiation to the economic aspects. EPAs have mostly been a case of BC. Finally, when there is low credibility on the economic aspects of the negotiation as well as low agreement on the state of asymmetry, then negotiations are very protracted and could go on indefinitely if time deadlines are not imposed.

This model, I argue explains the variable speed in EPA ratification by ACP states and is particularly useful in explaining the variable speed between the Cariforum states and some of their African counterparts. As indicated in almost all elite interviews, while the Africans states (except Mauritius) sign (or initial) on to EPAs as a reactionary move to forestall market access loss due to expiry of the 2007 WTO waiver, Cariforum states are proactive in anticipating an EPA not only to legalize their preferences and thus avoid political trade dependence but also as a catalyst for spurring domestic reform and advertising those reforms. EPAs are completely in tune with Cariforum domestic intentions, motivations and aspirations. Cariforum's strong pro-EPA ideological disposition is affirmed by Grant (2000) and Heron (2010) who describes how the group's leading negotiator in 2000 fomented an 'intellectual character of the CRNM in a pro-liberalization direction by identifying the need to respond in a pro-active manner to the

‘imperative’ of reciprocity as the central *raison d’être* of the new collective negotiating framework’ (Heron, 2010: 15). Rather than accepting an EPA as a reluctant measure to forestall market access loss, the Cariforum embraces the EPAs as an avenue for locking down its preferences with the EU, catalyzing domestic reforms and as a billboard to advertise those reforms. In the ‘economic’ aspects of EPA the Cariforum is therefore in complete normative tandem with the EU objectives and thus its position would be around AC. Cariforum group is also one of only two states which did not expect any financial reward from the EU thus showing great agreement with the state of asymmetry. However, because of their lower normative persuasion on the utility of EPA, other initialing ACP regions/states would be more to the right of model somewhere around BC. Other ACP non-LDC states which have not initialed an agreement at all (such as Nigeria, Gabon and South Africa) would fall under BD. For them the utility and asymmetrical exchange in EPAs is undesirable.

Similarly, there is a wide berth between Cariforum and other ACP states (except Botswana), on their asymmetrical expectations from the EU. While the normative persuasion of a number of African ACP states on the ‘economic’⁶⁶ aspects of EPAs is amenable, the real and more intractable variance between the Cariforum states on one hand and their African and Pacific counterparts on the other, is to be found in their stance on the state of EU-ACP asymmetry. In fact it is the ‘asymmetrical’ aspects of the EPA negotiations (ACP compensation, MFN, export taxes and scope of the EPA) that have been most contentious. When one narrows down to the central question of the SVI questionnaire which measures the variances in ACP expectations

⁶⁶ As explained earlier, in the EPA negotiation ‘economic’ aspects refer to the basic aspects of an FTA – essentially tariff liberalizations on imports. By the end of the liberalization duration, the Cariforum group, the East Africa Community, Mauritius and Seychelles would all higher levels of liberalized trade volumes well above the EU minimum threshold of 80%.

on asymmetry, (*To what extent were your negotiators of the view that to accomplish the 'development' dimension, the EU ought to compensate ACP states for fiscal losses due to EPA liberalization?*) the Cariforum states (and Botswana) are the only region among the ACP that did not view the EU as having any obligation to compensate ACP states due to their liberalization losses. (See column six, item 5 of table 18). This is an approach that was in tandem with the EU view of its not being obliged to pay/offer the ACP states additional resources over and above the existing EDF funds.

Moreover in order to understand the ACP variances in view of asymmetry, one needs to appreciate why the Cariforum regarded the state of asymmetry in extant EPAs as acceptable, unlike the rest of the ACP. Like other ACP states, the Cariforum too was keen on some level of asymmetrical exchange between itself and the EU. However, for the Cariforum, this asymmetrical exchange was agreeably (achievable and) was achieved through asymmetrical liberalization in the 'economic' (SAT) aspects. As the EU side had indicated in its negotiating mandate, such flexible, asymmetrical liberalization was to be availed. As the mandate envisioned 'appropriate flexibility should also be applied in relation to product coverage and the calendar/rhythm of liberalisation commitments by the EPA partners. "Backloading" of implementation commitments and any product exclusions from liberalization should reflect the specific constraints and sensitivities of the partner countries concerned' (ECA, 2002. 6). The EU as was thus normatively committed to some level of asymmetrical liberalization in favor of the ACP states but only in the 'economic' SAT aspects. As the Cariforum negotiating machinery clarified in a communique which sought to dispel the 'fiction' that 'EPAs had not honoured the commitment to the principle of asymmetry' (the Cariforum Negotiating Machinery, 2008), Cariforum asserts that asymmetry had been achieved because contrary to this 'fiction' that EPAs were not sufficiently asymmetrical;

EPA obligations are highly asymmetrical with EU obligation being more extensive and adjustment periods being shorter than those for the Caribbean; an approach consistent with the

differing economic and adjustment capacities of the two partners. Numerous examples of important differences in obligations by both sides can be provided, but reference to a few salient ones should suffice.

Asymmetry is most evident in the area of market access in goods where the EU is liberalising all eligible imports from Caiforum from 1 January 2008 (apart from rice and sugar after a brief transition), whereas Cariforum is liberalising most of its imports from the EC over a 15-year transition with a number of sensitive imports liberalised over periods up to 25 years. Cariforum does not have to begin to liberalise imports before 1 January 2011 and will permanently exclude some highly sensitive products from liberalisation.

(Cariforum Negotiating Machinery, 2008)

In Services, the EU has made liberalisation commitments in 94% of the sectors whereas the corresponding figures for Cariforum LDCs and MDCs are 65 and 75% respectively. Cariforum countries have thus been able to exclude a larger number of service sectors, including sensitive ones, than the EU. The EU has also committed to providing development support to buttress regional integration, facilitate the implementation of EPA commitments

Cariforum, *EPA: FACT VS. FICTION Issue 1. (2008)*

The Cariforum here goes on to enumerate precisely why and how its agreement had suitably achieved asymmetrical outcomes. The Cariforum states were therefore not only in normative⁶⁷ agreement with just the ‘economic’ objectives of an EPA but also in agreement with a less ambitious, re-calibrated state of asymmetry with the EU where unlike other major rounds of EU-ACP negotiations, there would be no financial inducements expected in exchange for influence. In contrast, the difficulty for most African and Pacific states – even the states whose normative persuasion on the economic aspects of the EPA is high such as Mauritius, Seychelles or Fiji - has been to accept concession to EU the influence it seeks in the asymmetrical aspects (MFN, Export taxes, liberalization in services etc.), without compensatory, reciprocal financial token as the EU has done in every major round of renegotiation of the two parities’ agreements. For the Cariforum, its ambitions on asymmetry were more modest than other ACP states. The EU and the Cariforum are thus in tandem in restricting asymmetrical exchange to only the economic aspects, unlike expectations of the African and Pacific states.

This model on credibility and asymmetry makes two important contributions in IR theory on asymmetrical negotiations and their outcomes. One, by borrowing from psychology and introducing the typologies of persuasion, we can highlight the order of different types of “negotiated agreements” and particularly so in the case of EPAs. Negotiated agreement in international economic negotiations can be “compliance” agreements, “identification” agreements or “internalized” agreements. In the case of ACP states, the duration of time that has passed after the 2007 initialing and the subsequent protraction and renegotiation, and as

⁶⁷ As referenced in the interview with Junior Lodge -Cariforum negotiator in elite interviews – EPA as a pretext/catalysts to protect ACP preferences from WTO litigation, to spur regulatory framework in non-tariff based barriers and was interested in using the EPA to spur domestic commitment to economic reform.

confirmed by elite interviews, most ACP states initialing an EPA (in 2007) did so as a matter of compliance. Initialing an agreement was not borne out of a veritable normative persuasion on the appropriateness of EPAs but on the fear of loss market access. Up to this point asymmetrical dependence suppositions would be right in attributing outcomes to asymmetrical dependencies. However, the emergence of variable speed after 2007, spearheaded by states (Cariforum and PNG) that were least trade dependent or tariff vulnerable, suggests the import of normative value congruence in precipitating agreement with the EU as a far more cogent explanatory variable than asymmetrical dependence. Ultimately, by drawing from psychology we are able to place EPA agreements within a theoretical prism of graduated types of persuasion. When a negotiated agreement is so critically precipitated by a time deadline (as it was in 2007 for all initialing states) then that agreement is likely to be only a reluctant compliance. But since some states (Cariforum) showed preferences that were very much in line with the EU's preferences, and their asymmetrical expectations too were in line with the EU's then we can deduce that normative convergence as a variable would be more cogently causative than suppositions on asymmetrical material vulnerabilities or inducements. When agreement is reached well before any deadlines are set, and without any special or additional material resource endowments by the superordinate state or region (as in the case of Cariforum group's ratification in 2008) then such an agreement is more likely to be through identification or internalization.

Secondly, the model accommodates both structural based variables as well as normative institutional variables in attributing causation of negotiated outcomes. The model does not discount the importance of structure (material asymmetries) in conditioning outcomes of economic negotiations. However, it argues that norms precede structure in informing states' preferences. States actions should not be assumed to be driven solely, or even primarily by considerations of material deficiencies or material capabilities. And thus this model clarifies the conditions under which material capabilities or vulnerabilities become critical. That is in cases, where there is little chance for reaching a normative, internalized or identity based

agreement on an issue. Only then are a state's action influenced by material capabilities or vulnerabilities. Since compliance agreement will only occur in the absence of value internalization, it seems logical then to infer that in order of influence, normative persuasion precedes structural variances as a more elemental foundation of preference formation. In understanding or examining the most elemental basis of a preference we must first consider if or not a normative agreement to the putative objectives of negotiations exists. Normative agreement or disagreement is the most primordial basis for preference formation. In the case of EPAs, taking into account of ACP states' variances in normative persuasion seems to cogently explain their disposition to ratifying an EPA or not. This corrects the Hirschmanesque inspired structural supposition (taken up Heron, Hurt, Dolan, Ravenhill, Farrel and Lempereur) that an agreement between a subordinate and superordinate state are necessary predicated on asymmetrical dependencies.

5.2 *The Logic of 'Clientelism': Asymmetrical Normative Institutionalism*

Since John Ravenhill's 1985 use of a heuristic device he called 'collective clientelism' to explain EU-ACP negotiations outcomes, the concept has become widely accepted as way of explaining how subordinate ACP states with few negotiating resources successfully 'punch above their weights' in negotiations with the EU (Clegg, 2005; Olsen, 1997; Elgström 2005; Kappel, 1996; Ravenhill, 2002; Stevens, 1986 and Langan, 2008). Undoubtedly, it is a forceful and highly persuasive concept in explaining EU-ACP relations. Yet, why is this strategy effective for ACP states against the EU? What is the essence of clientism? Why are subordinate states able to extract more from a superordinate state if they are more closely (institutionally) intertwined with that economically superior party in an associative relationship?

Collective Clientism is brought up here because it is deemed very pertinent in explaining what Lorenz (2012) has called a 'not so weak south'. As shown in section 4.6. the ACP states are unique in how successfully they resist the EU negotiating deadlines, in spite of their putative material weakness. And in so doing, initialing ACP states have managed to extract

varying negotiating time frames from the EU ranging from 6 years to beyond 12 years contrary to the EU's wishes. Why are they able to do this? Lorenz basis her explanation of ACP strength on what she describes as 'regional dynamics' rather than EU strength. She describes 'regional dynamics' as encapsulating '...the negotiation structure (of ACP states), processes of coalition building in the individual negotiation groupings, and by the role of the regional hegemon in every group in the individual EPA negotiation groupings (Lorenz, 2012:24). However, as argued in section 4.6 the role of regional hegemons seems unable to provide a comprehensive pattern of explaining ACP wide efficiency variances. After all, a few SACU states in SADC have in fact defied South Africa to sign the agreement while within the EAC group, Kenya has not⁶⁸ signed the EPA in spite of its normative disposition to do so and has been kept from signing only by its regional obligations to other economically smaller EAC states. This disputation of Lorenz's argument has been done in section 4.6.

Contra Lorenz, as I argue here, the strength of the ACP states (or the weakness of the EU) in associative negotiations can be explained not by the inherent qualities of any of the parties but by the entrapment engendered by the normative regimes of their interaction and institutions. By relying on new theoretical developments in institutionalism, we can infer the institutional implications of associative relationships in proffering greater negotiation power to subordinate states in asymmetrical negotiations. It is the institutional set ups engendered by associative political relationships that give potency to clientelism.

⁶⁸ On Kenya's difficult balancing position and primary loyalty to regionalism in spite of normative agreement with the EU see http://www.trade.go.ke/index.php?option=com_content&task=view&id=158&Itemid=98

This argument is based on John Ravenhill's seminal heuristic of collective clientelism. However, beyond Ravenhill's observation, this section seeks to broach on what the theoretical essence of clientelism as is used in the context of ACP-EU negotiations and why it works. Overall a clientelism relationship is one which 'involves asymmetric but mutually beneficial relationships of power and exchange, a non-universalistic quid pro quo between individuals or groups of unequal standing. It implies mediated and selective access to resources and markets from which others are normally excluded. This access is conditioned on subordination, compliance or dependence on the goodwill of others (Loniger, 2004:353). As Ravenhill defined it in relation to EU-ACP relations and negotiations, 'Collective Clientelism' refers to a

relationship in which a group of weak states combine in an effort to exploit the special ties that link them to a more powerful state or group of states. Through this means they hope to construct an exclusive regime under which they exert a claim on the stronger party in order gain or preserve particularistic advantages not available to non-associated states' (Ravenhill, 1985: 22).

Ravenhill's observations were based on the *Lome 1* negotiations of 1975 where ACP states broke ranks with the rest of the what were then referred to as least developed 'third world' states to broker a more exclusive and beneficial relationship with the EU. The Lome Agreements between the ACP and the EU were hailed as historic and came in the backdrop of developing states clamor for a New International Economic Order which among other things sought to index the prices of 'southern' exports to match those of its manufactured imports. Yet since then, even in negotiations where the ACP has had exclusive (as only ACP) negotiations with the EU, this associative strategy based on exclusive relations has usefully served the ACP states.

A core variable under consideration in this thesis is of course that of time taken by EU and ACP states to reach an agreement. Time (in years) has been used as a measure of negotiation

efficiency. And as documented in section 4.6, the EU has tended to be more accommodating in conceding longer negotiating timeframes with the ACP states than with other trade negotiations with non-ACP states. In fact none of the EU/EC's existing 41 Regional Trade Agreements⁶⁹ has taken as long a duration to negotiate (without suspensions or utter total collapse) as the current negotiations for an EPA. In situations of non-associated states the EU has either suspend or completely broken off negotiations if an agreement is not forthcoming by the fifth year. And thus true to Ravenhill's observation on the usefulness of collective clientelism, ACP states seem able to exert a stronger claim on the EU than would otherwise be if they were not bound in an associative relationship. Ravenhill's observation on use of collective clientelism as a successful associative strategy by ACP states against the EU is therefore undeniably perceptible. However, why does clintelism work? A more direct way of asking the same question is why are superordinate states more pliable to the demands of associative subordinate ACP states? Why is the EU less accommodating (at least in regards to time and patience to stay in a negotiation even where trade expansion prospects could be higher) with other less developed non-associative states such as ASEAN or Mercusor states?

Explaining why ACP states seem able to extract more from the EU has been a subject of modest interest to scholars of EU-ACP relations. Two scholars who have attempted this explanation best based on collective clientelism and normative dispositions are Ravenhill (1985) and Egström (2005). Egström has persuasively hypothesized that the EU feels bound by a partner identity which is hinged on three elements- the *Lome Culture* – a legally binding contractual relationship with the ACP, EU's *richese oblige* – a sense of special responsibility for

⁶⁹ See WTO 's website for a listing of EU's RTAs in force <http://rtais.wto.org/UI/PublicAllRTAList.aspx>

its former colonies and EU's normative belief in international interdependence. All these factors inform the EU's actions and are illuminating and indeed inform the variables examined in section 4.6 of the dissertation. However with his skewed understanding of ACP's collective clientelism as ACP currying favor with the EU, in tandem with Lister (1998:22), Egström has a tendency to interpret EU concessions as a matter of 'altruism and moral commitment' (Egström, 2005:189) and thus veers off an institutionalist understanding and seems to imply that the EU is merely generous to the ACP states. But again if the EU were merely generous to the ACP, why can it not be equally generous to other states such as ASEAN or Mercusor or the Gulf Cooperation Council with whom asymmetrical trade negotiations have been attempted and failed? What makes the ACP such an object of EU generosity? Since ACP states are not the only developing LDCs in the world with which the EU has attempted unsuccessful, short-lived FTAs, in Egström's logic, one would expect the EU's 'altruism and moral commitment' to extend even to these needy non-associated states. But this is not the case.

Away from Egström's arguments imputing EU's altruism, Ravenhill provided a far more compelling and institutionally founded explanation of why collective clientelism works for the ACP states. As he observes, for the ACP states, '...the essence of clientelism was to reach an agreement that would guarantee their position by *placing constraints on autonomy of European policymaking*⁷⁰ on issues of vital interest to them' (Ravenhill, 1985: 4). Although never pursued into a deeper theoretical set-up, Ravenhill certainly provided a perceptible supposition of how or why clientelism works, that is - by institutional entrapment of policymaking. The following section of this chapter explicates on normative institutionalism (and its off shoot, asymmetrical

⁷⁰ My own highlight to emphasis the institutional entrapment alluded to by Ravenhill.

normative institutionalism) in explaining why collective clientelism works only for associated states, by dint of the institutional norms and expectations engendered by a close relationship between two states or groups. The following section thus seeks to situate collective clientelism within a more formal theoretical set-up in one of the new institutionalisms – normative institutionalism.

Normative Institutionalism in EU-ACP Relations and Negotiations

Right on the heels of Ravenhill's passing hint on the institutional constraints and entrapment in international relations, there arose a vibrant debate and theorizing on the role of institutions in international relations. The early 1990s brought with them a great profusion of literature and theorizing on the role of institutions as independent variables in shaping states' preferences and negotiated outcomes. Some of the volumes or papers coming out in the decade on new institutionalisms included Cook and Levi, (1990) *The Limits of Rationality*, March and Olsen's, (1989) *Rediscovering Institutions*, Grieco's (1988) 'Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism', Powell and DiMaggio's (1991) *The New Institutionalism in Organizational Analysis*, and Steinmo, Thelen and Longstreth's (1992) *Structuring Politics: Historical Institutionalism in Comparative Analysis*. In 1993, Douglass C. North, considered a leading proponent of new institutionalism won the Nobel prize for Economics for his role in advocating the role of institutions in explaining variances in economic development among states. It may be persuasively observed that Institutionalism based foundations for state actions as constrained by rules, principles, norms and procedures had of course been firmly established earlier in the decade by Stephen D. Krasner's (1982) superb edition *International Regimes*.

Even closer home to the subject of EU/ACP relations and negotiations, a great chunk of this profusion of literature went on to use institutionalism based variables and interpretations in explaining EU governance and external relations. Examples here would include, Lavenex and Schimmelfennig (2010) *EU external Governance; Projecting EU Rules Beyond Membership*, Sandholtz and Stone Sweet (1998) *European Integration and Supranational Governance*, Stone Sweet, Sandholtz and Fligstein (2001) *The Institutionalization of Europe*, Donnelley (2010) *The Regimes of European Integration*, Egstrom and Jonsson (2005), *European Union Negotiations; Processes, Networks and Institutions*, and Slapin's (2008) 'Bargaining Power at Europe's Intergovernmental Conferences: Testing Institutional and Intergovernmental Theories'. Having thus appeared slightly earlier than this profusion of theorizing on institutionalism in EU's domestic and international relations, perhaps it is understandable that Ravenhill's concept of collective clientelism was not fitted within any coherent subset of institutionalist interpretation.

The central thesis of institutionalism theories has been role of institutions as independent variables that guide, shape and constrain state's behavior, often away from preferences that would hitherto be considered competitive or zero-sum. The central role of institutions as explicated by North, DiMaggio, Olsen, Sandholtz, Thomas and others is to inform what is considered appropriate organizational principles, norms, rules and codes of conduct within a given relationship and thereby to constrain the parties to behave within those boundaries. As defined by Olsen, political institutions are 'collections of interrelated rules and routines that define appropriate actions in terms of relations between roles and situations. The process involves determining what the situation is, what role is being fulfilled, and what the obligation of that role in that situation is' (Olsen, 1989: 160). Thus based on a normative institutionalist interpretation, collective clientelism works not because of any innate EU altruism, or due ACP negotiating dexterity or coalitions à la Lorenz, but due to the constraints engendered by the principles and norms of their formalized institutional relationship.

Normative institutionalism emphasizes the 'behavioral impacts of standards of appropriateness established by the Community's normative and policy commitments' (Thomas, 2008: 8). As Thomas goes on to elaborate, normative institutionalism takes that member states will behave in accordance with the norms and principles established by a political union/alliance in order to ensure the viability of that alliance even when there are disagreements on the parties' positions. In spite of divergent preferences, the prevailing agreement will reflect those preferences that are best seen as being consistent with the principles and norms established by the political union. While institutionalism has mostly been used (by Koenig-Archibugi, 2004; Thomas, 2008; Slapin, 2010; Sandholtz, 1996; Sandholtz and Stone Sweet, 1998 and others) to examine and explain intra-EU bargains, my contention here is that in agreement with Lavenex and Schimmelfennig, (2010: 7) the principles and norms of EU institutions have become extended and embedded within EU-ACP institutions as a form of a hierarchical governance based on legally binding, asymmetrical compliance. Normative institutionalism can either be due to entrapment or cooperation. Normative entrapment refers to a situation where a state or region acquiesces to less preferred positions or "plays along" in order to be seen to be abiding by the rules of institutional expectation. As Thomas spells out, normative entrapment is preceded by acts of rhetorical framing, then entrapment and finally the norm consistent policy is reached.

The argument is that EU-ACP relations are unique and have produced a unique set of relational norms and principles that are considered appropriate and which constrain the EU in a manner that the EU doesn't feel constrained in other non-associative relationships. EU-ACP asymmetrical relations are unique because they have two systematically institutionalized elements: One, multi-layered EU-ACP legally binding non-WTO based agreements which have created a notion of political union or partnership. Two all EU-ACP agreements since Youde have institutionalized asymmetrical exchange as a central pillar of the relationship.

Even in cases of a specific negotiation round such as EPA, these historical contractual engagements have thus lifted any EU-ACP interactions from a mere bilateral 'trade' or 'development' negotiations into a negotiation of the 'partnership' as a distinct political entity.

As seen in section 4.6 this partnership is hinged on three elements or norms of the relationship: One, the two parties' commitment to consensual negotiations where withdrawal from a negotiating round has never been experienced and would be termed as inappropriate. As quoted above, any time the EU tried to ram through a unilateral negotiating deadline the ACP would accuse it of ruining the relationship. An agreement that is thus seen as non-consensual or a unilateral withdrawal from the negotiations is deemed an inappropriate action within the partnership. There is an expectation to stay put until a consensus is achieved. Two, the EU-ACP relationship have an institutionalized asymmetrical relationship which is legally incorporated and enforced through a crafty exchange of material benefits and policy influence. Thirdly, relations are guided by the normative partners' commitment to regional integration. Over time, both parties become entrapped by these institutional aspects of their relationship even when such institutional norms are not necessary utility maximizing. As table 22 showed, the EU's institutional constraints as represented by these three attributes were very high at 6.5 out of a total of 7.

As Thomas spells out, normative entrapment is preceded by acts of rhetorical framing, then entrapment and finally the norm consistent policy is reached. In addition, normative institutional entrapment occurs best when certain conditions are present. These conditions, as Thomas presents are:

Determinacy: Entrapment is more likely when the relevant substantive norms are determinate – that is, when actors, regardless of their preferences, have little doubt about which norm applies to the issue at hand, which policy behavior it condones and which it condemns (Franck 2000).

Precedent: Entrapment is more likely when the EU has already made policy commitments on the issue at hand – that is, already invested its resources and reputation on behalf of one principle or party involved in the issue at hand.

Relevance: Entrapment is more likely when external conditions are relevant to or consistent with the assumptions that underlay the existing EU norm or policy commitment. Where conditions are irrelevant or inconsistent, actors are disentrapped (or released) from their normative or policy commitments. For example, an EU commitment to offer privileged market access to a particular country because it is poor would no longer entrap Member States if that country ceased to be poor.

Forum: Entrapment is more likely when policy deliberation occurs within forums where EU norms and policy commitments are salient and thus exert strong compliance pull. Generally speaking, this means within the EU, though it may also pertain to deliberations within closely allied institutional forums such as the Council of Europe. When Member States negotiate in a forum shielded (at least partly) from the compliance pull of EU norms, which is most likely outside the EU, then entrapment is less likely. EU Member States are disentrapped when operating within institutional forums that assign them distinctly non-EU roles, such as mediator between third parties or the rotating presidency of an international organization.

Publicity: Entrapment is more likely when the issue under discussion has received significant public attention, which increases the likelihood that non-compliance with existing EU norms or policy commitments will be noticed and subject to disapproval.

(Thomas, 2008: 11-2)

In closing the section, here I show how these various conditions for normative institutional entrapment were present in the EPAs. To begin, the rhetorical framing of both parties negotiating mandates (and other negotiators' statements) shows that these factors all existed to varying extents with regard of the EU and ACP expectations.

Determinacy - as an awareness of what norms are at play shows that each of the parties negotiating mandates was acutely aware of the emphasis placed on development, regional integration, and asymmetrical liberalization. In other words both parties were very much aware of the norms and principles at play, so much so that aspects as regional integration and differentiation (asymmetry) as explicitly labeled by both parties as principles of the negotiations.

Table 23: Rhetorical Framing of ACP and EU Negotiating Mandates on Norm Salience:

Norm	EU Mandate	ACP Mandate
Development	38	47
Partnership	15	7
Asymmetrical/differentiation/flexibility	11	6
Regional integration	18	17

Source: SEC (2002) 351 final and ACP/61/056/02 final

As table 23 shows, key elements of the EU-ACP institutional norms differentiation, partnership, development and regional integration- inundated each party's mandate. As the table shows there was preponderant awareness of the principles and norms of expectations at play.

Precedence of ACP-EU partnership norms such as asymmetry, regional integration and consensual agreements in negotiations were established by the parties in earlier negotiations and agreements going back to *Younde 1*. Similarly, since the EPA negotiations were undertaken within the historical institutions of the Commission (for EU) and the ACP constituent regions for the ACP states, the *forum* was present and adequately versed in the procedural norms and principles. Once the ACP states fragmented into new regions, or even into individual national governments then the greater forum was diminished and thus less normative agreement on institutional expectations. Since previous EU-ACP agreements were primarily conducted by the directorate of development in the Commission (DG development), a case could also be made that perhaps *forum* was diminished the handover of negotiations to DG trade who were in charge of EPAs. Perhaps this could explain why the development aspect, as a norm of the EU, was less influential under the trade department. Nevertheless forum was still highly present since the negotiations were done under the same old institutional frames of the EU-ACP. The *relevance* aspect of entrapment was perhaps the most telling outcome of the SVI questionnaires. With regard to the ACP-EU relations, the question of relevance was one of if the 'special relationship' as launched by the Treaty of Rome was of any relevance to the two parties in these negotiations. When the question of special relationship is posed as a vacuous, undefined ideal, [*How influential was the idea of maintaining EU-ACP 'special relations' important in informing your negotiating objectives, preferences and attitudes?*], all states reported at least a modest entrapment or loyalty to the principle. It's illuminating to observe that even though the question was deliberately phrased in a vague manner where special partnership does not encompass any precise benefits, all countries still reported being somewhat bound by a degree

of loyalty to the idea of special relations. The EU is itself bound by this principle more acutely than most ACP states.

Table 24: Entrapment on Relevance (Are special relations still relevant?)

How influential was the idea of maintaining EU-ACP 'special relations' important in informing your negotiating objectives, preferences and attitudes

State	Score	State	Score
EU	5		
		Botswana	7
Cariforum	2	Mozambique	4
PNG	-	Swaziland	4
Mauritius	4	Namibia	2
Seychells	6	Angola	4
Zimbabwe	6	Rwanda	4
Kenya	7	Zambia	6

Source: SVI questionnaires 2013

This is the case for even states like Angola and Namibia which have been highly resistant to acceptance of an EPA.

The purpose of this section has been to locate *collective clientelism* within a broader theoretical landing in intuitionism. In agreement with Ravenhill's perceptive observation, my

contention has been that in Economic Partnership Agreements (EPAs) negotiations, the power of the seemingly not so weak ACP can be explained by their mastery of this successful associative strategy. However in disagreeing with Elgstrom, collective clientelism is neither EU altruism nor ACP demandeurs. Rather, clientelism fits aptly within normative institutionalism and works by institutionally tying-down a superordinate Gulliver like the little men of Lilliput. Similarly, in disagreeing with Lorenz, the quality of coalitions does not provide a cogent explanation for ACP states inordinate resistance power for the comprehensive - ACP vs. EU - super dyad.

Since collective clientelism seeks to work by creating institutional constraints to a stronger superordinate state, it falls squarely within normative institutionalism and can be described as a form of *Asymmetrical Normative Institutionalism*. Asymmetrical Normative Institutionalism can explain the unique power ACP states hold over the EU unlike other south regions without, legalized institutionalized links with the EU (what Ravenhill calls associated states). Asymmetrical normative institutionalism – means a situation where a weaker state gains influence over a stronger state by dint of its use of entrapping norms and principles engendered by the two states' institutionalized asymmetrical relations which have created a political union. Since flouting these principles and norms would be deemed as endangering the viability of the political union, the superordinate is forced to restrain itself in order to maintain the relationship. This restraint however is not done out of altruism but out of the institutional constraints placed on it. And as shown in tables 23 and 24 both parties in such a negotiation or relationship are subject to these principles and norms. Such norms are in force for the ACP as well as the EU.

6 CONCLUSION - NORMATIVE POWER AND THE PSYCHOLOGY OF PERSUASION

The research questions that guide this dissertation are based on seeking an empirical affirmation to the cogency of asymmetrical dependency as the chief explanatory factor in compelling outcomes of ACP-EU EPA negotiations. To what extent are variances in outcomes of EPA correlated to the variances in ACP states material (trade and tariffs) vulnerability to the EU? And if not, what other variable(s) provide the most compelling explanation on the nature of EPA outcomes? These questions were pursued through document analysis, elite interviews and subjective value index surveys with negotiators from 28 ACP states and the EU. Norm convergence among ACP and EU on utility of EPAs and perceptions of what is fair asymmetrical exchange are found as major explanatory variables for efficiency outcomes. Moreover, this research sought to provide an explanation of why ACP states wield remarkable resistance power to an EU offensive over extension of negotiation duration in spite of the inordinate material asymmetries between the two parties. *Collective clientelism* is provided as a compelling explanation of ACP strength. However, beyond extant characterizations of collective clientelism as a drifty concept that represents EU as a noble, altruistic actor, clientelism is empirically tested, demonstrated and placed within a formal institutionalist theoretical framework. It is argued that EU-ACP relations have produced norms and principles of membership which entrap and constrain both partners behavior in the negotiation. By inference, if norm convergence among rival negotiators is a critical variable in fomenting agreement, then negotiation processes should invoke appropriate means of norm socialization to insure greater convergence. Yet what are these 'appropriate' means of norm socialization? This conclusion summarizes the contents of each chapter and in ending proposes more empirical studies into models of norm influence and socialization processes in asymmetrical negotiations as further tasks for scholarship in negotiation analysis.

Chapter One: Chapter one sets out the problem and puzzle that informs the research. This puzzle is split into two questions regarding the efficiency of completing EPAs. In negotiation analysis negotiated outcomes can either refer to distribution outcomes or efficiency outcomes. This thesis focuses mainly on the efficiency question. That is, the amount of time taken by a negotiating dyad to reach agreement, in this case ratification or application of the agreement. The first question regards and entails explaining the intra-ACP variations in EPA ratification (or lack of it) as set out in table 2 and figure 2. Why have some ACP regions and states moved faster than others in ratifying their EPA agreements. ACP EU negotiations on EPAs were divided into seven smaller negotiating dyads (what I call sub-dyads) and the first question entails explaining why we have variances in efficiency outcomes among this seven regions.

What accounts for bargaining efficiency in EU-ACP Economic Partnership Agreements?

- (i) What accounts for the variable speed in EPA conclusion between the EU and various ACP states?
- (ii) What accounts for ACP's inordinate resistance to EPA conclusion from the EU considering the EU's putative power dominance in the negotiation?

The second question entails explaining negotiation protraction in the super dyad (ACP vs. EU). Why is it that the ACP states are able to resist EPA ratification for so much longer beyond the deadline (2007) by which the EU had envisioned to have completed EPA negotiations. While the EU is quick to suspend (usually within 5 years) FTA negotiations that are seen as deadlocked with other regions in the world, it has neither suspended the EPAs, and nor has it sought to unilaterally impose the GSP preferences on ACP non LDCs in spite of the putative capability to do so. What explains this apparent EU 'softening' when dealing with ACP states? In addition this chapter introduces the tasks and three objectives inherent in any attempt at negotiation analysis of a given case. One of the objectives as may be evident in this work is an

aspired contribution to improvement of conceptual frameworks (or theory) in understanding asymmetrical negotiations particularly or economic negotiations generally.

Chapter Two: Chapter two is used as a literature review on extant explanations of negotiated outcome causation in EU-ACP economic negotiations. Further the chapter examines not only theoretical suppositions on outcome causation but also on empirical studies that have attempted to explain either the distributional or efficiency outcomes of the EPAs. Chapter two is important in not just giving a broad view of state-of-the-art in scholarship on the subject, but also in establishing the deductive foundations of my own research. Chapter two starts by outlining the three broad theoretical dispositions taken by scholars regarding the privileged variable(s) of outcome causation. For realists and liberalists outcomes are chiefly a function of the configuration of capabilities; for some scholars, negotiated outcomes can be explained mostly as a function of the negotiating process –negotiating strategies, coalitions, personalities and the physical components of the bargaining process. For institutionalists the outcomes can be explained chiefly on the bases of how shared institutions (belonging) inform preferences and constrain strategy. Table 4 summarises the extant theoretical and empirical suppositions on causation of EPA outcomes. Since one of the most consistently occurring hypothesis is on the role of asymmetrical trade interdependence in precipitating swift agreement to and EPA, examining the cogency of this supposition becomes the central deductive empirical task of the thesis. The role of ACP trade dependence in compelling ratification after 2007 is examined in chapter 4 section 4.3. The outcomes of this exercise reveal that trade and tariff dependence have only a rather weak influence the propensity of an ACP state to ratify an EPA.

Chapter Three: This chapter outlines the method on how the question is answered. The research is conceived as a disciplined configurative and heuristic case study that compares the efficiency performance of different negotiating ACP regional dyads (all against the EU) and

tries to locate the determinants of negotiating success (in efficiency and distribution characteristics of outcomes). As George and Bennett (2005: 20) one of the advantages of case studies is in their heuristic usefulness in identifying new explanatory variables for a given outcome. Starting out with a deductive foundation as indicated, the aim is to affirm or seek out new explanatory variables for attribution in asymmetrical economic negotiations. Starting out with an ontological reflection on the foundations of the research the chapter is then divided into five sections as below.

- Phase One: Lay out the dependent and independent variables – section 4.2.
- Phase Two: Test regularities in correlations of the deductive variables in question [relationship between asymmetry and intra-ACP variance] – Section 4.3.
- Phase Three: Conduct conceptual interviews based on which new explanatory variables are established or existing suppositions affirmed- Section 4.4.
- Phase four: Through use of standardized (Subjective Value Index) surveys examine intra-ACP variations in hypothesized new variable [degree of intra-ACP convergence in EPA utility] from main EPA negotiators. Section 4.5 and 4.6.
- Phase five: Use analytic induction to analysis the data and make inferences on the findings import on asymmetrical negotiations.

The two key methodological propositions in the thesis is to show shared normative preferences between asymmetrical states in EPA negotiating dyads as constituting a causal mechanism in EPA outcomes. Secondly the thesis seeks to show that in EPAs normative value convergence has a greater causal impact on efficiency than trade or tariff dependency. For data the research relies on documentary data collection and interviews. The interviews were further divided into initial semi-structured elite interviews followed by highly structured questionnaire interviews aimed at a measurable calibration and comparison of normative

positions, preferences and entrapment. A central positivist problem in the conceptualization and attribution of norms and normative persuasion as a causal mechanism in international relations lies in how persuasively the putative norms can be captured in a gradable and calibrated format. This is done through use of the Subjective value Index. Such a gradable survey as has been used in this research renders inter-regional or inter-state comparisons more plausible and stands as a unique use of a gradable, measurable calibration in measurement of states' normative convergence or divergence. The measurement objective of course corresponds to the ontological positivist aspiration outlined in the first section this chapter. The use of normative comparisons among 28 ACP states' plus the EU analytic induction is considered to have been considerable met by subjecting the same hypothesis about the role of normative convergence and norm entrapment to not just one case, but many cases with concurring patterns of outcomes.

Chapter Four: Chapter four is thought of as the centerpiece of the thesis that binds the empirical to the theoretical. This chapter is intended to provide the empirical data that answers the research questions on three sequential levels. First the chapter seeks to show that the EU 'wins' on key contested (distributional) issues of the negotiation. By mapping out the zone of agreement on key negotiated issues, data on EPA outcomes at 2007 initialing stage show that final distributional agreements are closer to the EU's original objectives than they are to the ACP regions' (and states) initial preferences. The first section of this chapter therefore concerns itself with the issue of *distributional* outcomes of EPAs – which is actually not the principal puzzle for the thesis. However, this step is deemed important in order establish *efficiency* variances between ACP states and regions as the principal variance in EPA outcomes. When one looks at the distributional outcomes of EPAs among ACP states, they are more or less the same irrespective of whether the size or nature of coalitions constituted during the negotiation. Table 13 presents the outcomes on major contentious issues and who won on each item and why it is considered they won.

Secondly, through documentary materials and statistical records, chapter four establishes the weak import of ACP trade dependence and tariff vulnerability on the propensity of states to ratify their EPAs after 2007. The centrality of trade dependence and tariff vulnerability is a central deductive guiding concern of the research. How important is trade dependence in compelling EPA agreement, and if not, what other variables might explain an ACP state's propensity to agree or withhold its EPA ratification? Having posed this question in conceptual interviews with ACP and EU negotiators, the role of norm convergence is found to be a cogent explainer of the patterns in propensity to ratify an agreement or not. In addition, when compared to other recent EU FTA attempts with countries in South Asia, Latin America and around the Mediterranean the EPAs suggest a noticeable level of resistance power of ACP states against a speedy agreement to EU wish for a speedy agreement. Ultimately chapter four shows that contrary to theoretical suppositions about the primacy of trade dependence in compelling an agreement, this supposition does not appear to be affirmed in the EU-ACP EPAs. Norm convergence (or ideational liberalism), a variable arrived at after initial elite interviews with ACP and EU negotiators seems to be a more cogent explanatory variable for inter-state cooperation in asymmetrical negotiations. Normative convergence on states' belief in the utility of EPAs as economic drivers as well as their satisfaction on mutual asymmetrical exchange defines the states' propensity to agree to or withhold ratification to an EPA.

Chapter Five: Chapter five deals with the theoretical inferences on asymmetrical negotiations presented by outcomes from EPAs. The fundamental claim empirically presented in this dissertation is that variances in outcomes of ACP-EU EPA agreements can be more cogently explained by the variances in ACP states' depth of *substantive beliefs* rather than these states' *material dependencies or vulnerabilities*. Contrary to widely held theoretical suppositions, EPA ratification by ACP states after the 2007 initialing is hardly driven by ACP states' material dependencies. What seems to count most is ACP states' depth of norm internalization and convergence with regard to belief in the utility of EPAs and the states' assessment of what constitutes a fair asymmetrical exchange. My findings however do not discount the theoretical

role of asymmetrical vulnerabilities in shaping states preferences in all asymmetrical negotiations. As a contribution in reconciling and refining how these two major variables - [substantive beliefs and material incentives] - influence negotiated outcomes, the *Asymmetry-Credibility Model* of assessing, anticipating and predicting efficiency in asymmetrical negotiations is proposed. The *Asymmetry-Credibility Model* of persuasion however does help in illuminating and clarifying two key aspects of asymmetrical negotiations especially as they relate to EU's claim of normative power in its relations with ACP states.

One, on a political psychology level, the kind of variances –initialing, signing and ratifying- that characterize ACP states outcomes suggest that negotiated agreements are not all the same. Some agreements are more emphatic and ingrained than others. As social psychology suggests, agreements can be precipitated by compliance, identification or internalization of norms. By reverting to political psychology and Kelman's classifications on these three sources of social influence –compliance, identification and internalization- IR theory can become more perceptible, more nuanced in understanding exactly what the source of an agreement is. From an IR perspective, agreements precipitated by compliance cannot be said to be normative. Such compliance agreements rely on material sources of power through incentive or coercion. Beyond compliance however we have identification and internalization. By highlighting the constraining effects of the regimes of membership in a given group, institutionalists give a very perceptive identification based explanation of ACP power or EU emasculation in associative political partnerships. Normative influence in asymmetrical normative institutionalism is a function of complying with the expectations of belonging to a group. Behaving appropriately in accordance with the group traditions and regimes. While the institutional foundations of normative cooperation or entrapment can be explained by identification, it becomes very difficult to demonstrate the foundations of normative internalization. This is the constructivist Achilles heel.

Two, if therefore, in fact or theoretically the EU is deemed to derive its resources for persuasion in asymmetrical negotiations from its market power or EDF funds, then this power cannot be said to be normative. Since as Ian Manners (2009) has observed, normative persuasion relies on the power of ideas and a negotiation's objectives are justified on the innate legitimacy of a principle (such as trade reciprocity, or a continued political partnership, or WTO compliancy in the case of EPAs), the primacy of material asymmetrical exchange in a negotiation such as EPAs calls into question the extent of EU's normative powers with the ACP group.

From a policy perspective, what the research outcomes implicitly suggest is that rather than deriving its power primarily from its material resources, the EU was more successful in ACP states where its normative objectives (freer and reciprocal trade in goods and services) were more rooted. The implication is that putative political hegemons in institutionalized asymmetrical economic relations such as the EU may increasingly have to rely more on hegemonic normative influence and norm diffusion as instruments of their power in the manner suggested by among others Inkeberry and Kupchan, (1990), Kroenig, McAdam and Weber (2010), Kivimäki (1993) and Manners (2002). In associative political relationships where binding institutions can place serious coercive power constraints on the superordinate state (the EU in this case), such a state should be capable of utilizing its normative powers to socialize the subordinate states towards the aspired goal(s). Increased relational power for the ACP states from collective clientelism requires increased normative power from the EU.

This thesis does not of course delve into examining the processes of socialization over the course of the negotiation process to capture or assess bi-directional shifts in ACP and EU norm socialization. Neither does this work seek to explain why some states have more agreeable normative preferences/positions with the EU than others. The subjective Value Index (SVI) surveys used capture normative variances among ACP states at a cross-sectional point rather than as a process. Yet the tracing of the process of norm diffusion as an instrument of influence

and clarifying the mechanism by which such socialization works remains a pertinent problem in explaining the process of social influence in negotiations. The exercise of normative power [which is based on the legitimacy of a principle] and the mechanisms by which a hegemonic state shifts the subordinate state from compliance to internalization or the other way round remains unclear. Similarly, while institutionalism does emphasize the role of institutional set ups in informing preferences or constraining behavior, it is also apparent that institutions are not static. Over time, path dependence is broken or altered. The suggestion from the differentiation among ACP states for instance does suggest that institutional expectation on asymmetrical exchange between the EU and ACP states are beginning to change. ACP states, by accepting a reciprocal trade agreement have tacitly indicated their willingness to shift the relational influence by making it more symmetrical. In the same vein, by reducing or eliminating its privileged trade preferences for ACP the EU has similarly suggested a move towards equalizing relations. This shift in institutional set up is not smooth and what precipitates a shift in institutions is not dealt with at length in this thesis. These two aspects of process shifts in bi-directional social influence and change of institutional sets ups are topics that this dissertation does not delve into. Yet they are subjects that merit time and interest.

DANKSE RESUMÉ

Det teoretiske udgangspunkt for denne afhandling er et ønske om at forstå og forklare to meget vigtige gåder, som relaterer sig til forhandlinger i EU vedrørende Frihandelsaftalen (den Økonomiske Partnerskabsaftale) med ACP-landene i Afrika, Carribien og Stillehavsregionen. Disse forhandlinger har stået på siden 2002. Disse gåder er:

Den første gåde angår den varierende hastighed, hvormed ACP-regioner og -lande ratificerer deres ØPA-aftale. ACP-landene kan således deles op i tre kategorier: lande, som har ratificeret aftalen af 2007; lande, som har underskrevet den; og lande, som kun har paraferet aftalen. Mens cirka sytten stater nu har ratificeret deres 2007-aftale, har andre tilbageholdt deres ratificering og endda gennemtvunget nye forhandlinger vedrørende aftalen. I en rekalkibrering af det, som John Ravenhill (1985) omtalte som 'horisontalt samarbejde', oplever vi nu håndgribelige forskelle mellem ACP-lande med hensyn til deres indstilling og tilbøjelighed til at indgå gensidige handelsaftaler med EU-landene. Hvis et ACP-lands ratificering af en ØPA-aftale skal ses som et succeskriterium for EU, hvori ligger så forklaringen på EU's succes med at bevæge nogle ACP-lande (og ikke andre) frem imod et JA?

For det andet må man spørge, hvorfor disse handelsforhandlinger hen mod en Økonomisk Partnerskabsaftale (ØPA) er trukket mere i langdrag, og hvorfor har de været mere tilbøjelige til at gå i hårdknude end andre nyere ØAP-aftaler i EU-regi? Dette modsiger gængse teoretiske antagelser inden for forhandlingsanalyser (Lempereur, 2009; Hirshman, 1945; Emersion, 1962; Ravenhill, 1985; Elgstrom, 2005), som anfører, at ACP-landes afhængighed af samhandel med EU samt EU's umådelige markeds kræfter burde have resulteret i, at forhandlingsrunden hurtigt kunne afsluttes, efterhånden som materielt afhængige lande indvilgede i denne afhængighed.

I modsætning til andre nyere EU-ØPA-forsøg, som enten er blevet afsluttet eller afbrudt inden for en femårsperiode, har ACP-landene i ØPA-forhandlingsrunden i bemærkelsesværdig grad formået at give efter for EU's offensiv, og de har dermed undgået at indgå i samhandel med EU gennem de seneste ti år, hvilket er ØPA's formål. ØPA-forhandlingerne har trukket

ud i over ti år, hvilket er et positivt resultat af ACP-landenes modstand mod EU i det, der er blevet kaldt 'det ikke så svage syd'. Hvordan kan man forklare denne bemærkelsesværdige modstand i lyset af ACP-landenes formodede materielle svaghed og afhængighed af EU-markedet?

Nærværende forskning undersøger disse to eksempler på succes: ACP-staternes succes med hensyn til at modstå en hurtig overgivelse til ØPA, og EU's succes med at få nogle ACP-lande til at sige ja.

Både disse gåder og de tilhørende spørgsmål har at gøre med, hvordan man kan forklare effektiviteten i ØPA-forhandlingerne. Ved at forklare divergensen i den hastighed, hvormed ratificering af ØPA-aftalerne har fundet sted i de forskellige ACP-lande, kan forskningen vise, hvilken rolle normer spiller for katalysering af statslig adfærd – udover den krise-betonede materielle og økonomiske afhængighed, som nogle teoretikere inden for asymmetrisk gensidig afhængighed ville fremføre. Med hensyn til ACP-landes styrke i forhandlingerne på trods af deres formodede økonomiske svaghed viser forskningen, at denne kan forklares ud fra, hvordan ACP-landene udnytter normerne i ACP-EU-partnerskabet til at 'narre' EU ind i en opretholdelse af *partnerskabsidentiteten*. Således stammer den kollektive klientelisme direkte fra den seneste tids fremadstormende institutionalisme, som er baseret på fortolkninger af EU's styrker og svagheder i unionens ledelse af eksterne anliggender.

Heri ligger ACP-landenes unikke styrke, som muliggøres af de normer, der præger deres institutionaliserede relationer til EU. Herudover har forskningen, ud over at måle styrken af ACP-landenes overbevisning (tro/ideologi) i forhold til nytteværdien af en ØPA-aftale, søgt at afdække, hvorvidt et ACP-lands tilbøjelighed til at ratificere en ØPA-aftale er baseret på landets tro på det hensigtsmæssige i en ØPA-aftale i forhold til landets økonomi snarere end på landets afhængighed af handel. Ved at introducere disse to teoretiske fortolkninger (normativ institutionalisme og sammenfald af overbevisning) søger forskningen at påvise, at en hurtig afslutning af asymmetriske forhandlinger afhænger af graden af normativ konvergens med hensyn til forhandlingsemnerne samt af de svagere landes tilbøjelighed til at

afvise eller bifalde social indflydelse fra de materielt set stærkere lande – snarere end af handelsmæssig afhængighed. Det er således graden, hvormed de dyadiske parter udfylder deres forventede roller i det hierarkiske magtforhold, der bestemmer hastigheden, hvormed en forhandling kan afsluttes.

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